

City of Albany
Citizens' Police Review Board
March 11, 2002

HBH Room - Albany Public Library (Washington Avenue)

In Attendance: Manuel Alguero, Kenneth Cox, Barbara Gaige, Marilyn Hammond,
Judith Mazza, Eleanor Thompson, and Michael Whiteman

Absent: Herman Thomas and Paul Weafer

I. Call to Order & Roll Call

Chairman Kenneth Cox called the meeting to order at 7:07 p.m.

II. Approval of the Agenda

The agenda was reviewed.

III. Approval of Last Meeting Minutes

The minutes were reviewed. Michael Whiteman noted that on page 6 of the February minutes, in the matter of CPRB Complaint No. 43-01 (OPS No. C01-524), the Board voted in favor of accepting the finding of the Office of Professional Standards and made a finding of unfounded. Mr. Whiteman reported, however, that there were not five (5) affirmative votes required to take action on the complaint; four (4) members of the Board voted in favor of accepting OPS' finding, two (2) members voted against accepting the finding and two (2) members abstained from voting. Therefore, Mr. Whiteman suggested that the Board place the complaint on the April meeting agenda for a re-vote.

Chairman Cox moved to accept the minutes. Dr. Manuel Alguero seconded the motion. The motion carried unanimously.

IV. Committee Reports

Chairman Cox recognized and introduced the newest member of the Citizens' Police Review Board, Barbara Gaige, who was appointed by the Common Council. Ms. Gaige gave a brief introduction about herself noting that she is a Registered Nurse, is an accredited addiction counselor and looks forward to participating on the Board.

Chairman Cox noted that Mayor Jennings had reappointed Dr. Alguero to a three (3) year term. Dr. Alguero commented that he appreciates the vote of confidence from the Mayor and the Police Department.

Chairman Cox reported that on February 12th, he, Judith Mazza and Eleanor Thompson attended a meeting of the 100 Black Men of the Capital Region. Chairman Cox reported that the 100 Black Men proposed having a Board town meeting at their facility to assist the Board in its public/community outreach efforts.

V. Old Business

CPRB No. 40-01. Karleen Karlson of the Government Law Center reported that the Board's Mediation Program had its first successful mediation. Ms. Karlson reported that mediators were matched by both ethnicity and gender with the parties and that the mediation session lasted approximately 2 1/2 hours. She noted her concern about the two months it took to set up the mediation, but commented that it will take awhile to establish the process.

Chairman Cox invited Board members to ask questions about the mediation, but no questions were offered.

CPRB No. 12-01/OPS No. C01-263. Dr. Manuel Alguero gave a summary of the complaint. Dr. Alguero reported that a monitor was appointed to the complaint that alleged excessive use of force and civil rights violation with respect to a landlord/tenant dispute. He summarized the content of the complaint, accompanying transcripts and the monitor's report noting the monitor's questions/concerns and recommendations. Michael Whiteman noted that the case involved a civil matter and was likely the result of ineffective policy and/or training. Mr. Whiteman then discussed OPS' findings with respect to each allegation contained in the complaint.

Dr. Alguero recommended that the Board accept the findings of OPS and make the following findings: "exonerated" as to the allegation of use of excessive force, "not sustained" as to the allegation of unlawful entry into the complainant's residence, and "exonerated" with respect to the allegations concerning the officers' arrest procedures. In addition, Dr. Alguero recommended that the Board request further investigation with respect to the allegation that the complainant was strip searched. Chairman Cox moved to accept Dr. Alguero's recommendations. Eleanor Thompson seconded the motion. The motion carried unanimously.

CPRB No. 33-01/OPS No. C01-458. Michael Whiteman gave a summary of the complaint. The case involved a female complainant and an incident that took place on October 13, 2001 in the vicinity of a bar on Madison Avenue. The bouncer at the bar asked the complainant to take her brother, who was drunk, home. According to the complainant, she and her brother were accosted by three men outside the bar who were armed and menacing. A call was made to the police who arrived at the scene and separated the individuals. According to the police report, the complainant was

interfering with an arrest and appeared to be highly intoxicated. The complainant fell during the incident and claimed to have suffered an injury to the head and claimed to have aggravated a pre-existing injury to her leg.

The complaint alleged: 1) unnecessary use of force - the complainant stated that she was pushed to the ground by a police officer with a billy or a baton aggravating a previous injury; 2) a police officer failed to provide a name and badge number to the complainant and the badge was not visible; and 3) the officer(s) were disrespectful - the complainant stated that the officers laughed at her when she asked for the officer's name and badge number.

OPS made a finding of "exonerated" with respect to the use of force allegation. According to OPS' report, the complainant did fall and the police officer at the scene admitted using a baton in accordance with police procedures. EMS was called to the scene and stated that the complainant said she fell. The EMS and medical reports indicated that the complainant appeared to be highly intoxicated, was witnessed ranting and raving at the scene and had attempted to interfere with the efforts of the police officers. All individuals at the scene describe the complainant as highly intoxicated and it was reported that the complainant ran into the officer's baton and fell down. There were no corroborating witnesses to the allegation of force

OPS made a finding of "unfounded" with respect to the allegation of improper police conduct, including the police officer's failure to provide identification and laughing at the complainant. There were no corroborating witnesses to the remarks or the laughing. Based upon the record, Mr. Whiteman moved to concur with the findings of OPS and make the following findings with respect to the complaint: "exonerated" as to the allegation of use of force and "unfounded" as to the allegation that the officer failed to provide a name and badge number and that the officer(s) laughed at the complainant. Chairman Cox invited the Board's questions or comments about the complaint. None were taken. Judith Mazza seconded the motion. The motion carried unanimously.

VI. New Business

A. *Complaint Review*

CPRB No. 1-02/OPS No. C01-515. Review of the complaint was tabled by Chairman Cox due to the absence of the Board member assigned to present the case.

CPRB No. 42-01/ OPS No. C01-512. Eleanor Thompson gave a summary of the complaint. Ms. Thompson explained that, in preparation for presenting this case to the Board, she had visited the Office of the Professional Standards and reviewed the records associated with the complaint. The complainant was arrested on December 5, 2001 and alleged that, during the arrest, police officers removed possessions from the complainant's pockets, took the complainant's Maryland driver's license and did not return it to him. The Police Department's Booking Office stated that it did not take the

complainant's license.

The complainant was present at the meeting and was recognized. The complainant stated that the arresting officer was not the officer who removed/lost his license. He claimed that he did not empty his own pockets because he was handcuffed. He stated that he believed the officers' intent was to leave him without funds to post bail.

Barbara Gaige asked the complainant if the license had been replaced. The complainant stated that despite his efforts, it has not been replaced. Judith Mazza asked the complainant whether or not there were witnesses. The complainant responded that when the police first arrived he was alone. A friend showed up at the apartment during the arrest, but was in another room when the complainant's pockets were emptied. Only the police officers were present when the license was taken.

Ms. Thompson asked the complainant if the license had been found in the apartment. The complainant responded that the police officer may have put it somewhere in the apartment, but he couldn't find it. Commander Paula Breen added that it is proper procedure during an arrest to have the individual being arrested leave his/her belongings at home.

Michael Whiteman asked the complainant whether or not the officer who took his license was the arresting officer. The complainant stated that one officer confiscated his license, but he is not sure which officer used the license to run his background check for priors, and that he was not clear as to who took his license. The complainant added that he has been using his passport as identification since the incident.

Ms. Mazza commented that the Board does not know the officers' names either and asked Commander Paula Breen if she knew the names of the officers involved. Commander Breen responded that she did. Barbara Gaige asked the complainant what his expectations were when he filed his complaint. The complainant responded that he wanted to report officer misconduct.

Mr. Whiteman moved to accept the finding of OPS and make a finding of "not sustained." Mr. Whiteman explained the finding to the complainant. Judith Mazza seconded the motion. The motion carried unanimously.

CPRB No. 02-02/OPS C01-525. Marilyn Hammond gave a summary of the complaint. On September 26, 2001, police officers responded to a domestic dispute. Two officers entered the residence and a third officer grabbed the complainant by the wrists. At the time of the incident, the complainant had an order of protection filed against him and should not have been at the residence. The record indicated that the complainant had a weapon on him and gave the police officers a false name. One of the officers recognized the complainant and knew of an outstanding warrant. During the arrest, the complainant was asked to stand up and when he refused to do so, police officers had to take him down to arrest him. The complainant was brought to the hospital. The

medical report indicated that the complainant had a sty in his eye.

The complaint alleged that: 1) the police officers used excessive force against the complainant during the arrest; 2) the complainant was denied medical treatment; and 3) the officers directed derogatory remarks toward the complainant.

Ms. Hammond reported that the record indicated that the use of force was necessary to effect the arrest and there was nothing to indicate that the force used was excessive. There was a scrape on the complainant's cheekbone and a scratch on the wrist of which pictures were taken. The complainant's allegation that he was denied medical treatment was untrue because there was a medical report. The witness to the complaint did not hear derogatory remarks made to the complainant because she was in the other room with her child. Ms. Hammond added that the complainant called the witness to corroborate an allegation that his ribs were broken contrary to the medical report indicated.

OPS' made a finding of "exonerated" as to the allegations contained in this complaint. Ms. Hammond agreed with the finding and moved to make a finding of "exonerated" with respect to the allegations. Chairman Cox seconded the motion. The motion carried unanimously.

Chairman Cox thanked the members of the Committee on Complaint Review for their presentations.

The issue of sworn affidavits being attached to the complaint was discussed. Dr. Alguero made a motion recommending a revision to Sections 25.2 and 25.3 of the Police Department's Standard Operating Procedures to prevent the use of sworn affidavits in filing a complaint. Michael Whiteman seconded the motion. The motion was carried unanimously.

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

Chairman Cox appointed Barbara Gaige and Herman Thomas to the committee replacing Dr. Manuel Alguero and Marilyn Hammond.

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

The report was given by GLC Staff Attorney Justina Cintrón. Ms. Cintrón reported that the newest member of the Review Board, Barbara Gaige, had been sworn in by the Mayor and completed the Board's orientation program earlier that day, and therefore, was a voting member of the Board. It was reported that Ms. Gaige would be starting the Albany Citizen Police Academy training program on March 26th.

It was reported that the Board was invited to the next meeting of the Common Council Caucus on Wednesday, March 13th to give a brief presentation to the Council about the

Board's activities since its inception. The meeting was scheduled for 5:30 p.m. at City Hall in the second floor courtroom. Manuel Alguero, Barbara Gaige, Eleanor Thompson and Michael Whiteman volunteered to attend the meeting on behalf of the Board.

It was reported that the Center for Law and Justice (CFLJ) is seeking sponsorship for their 9th Annual Conference on Criminal Justice to be held at Albany Law School. The Board was referred to CFLJ's letter of January 4, 2002 which was recently received by the GLC on the Board's behalf. A suggestion was made to include an announcement on the Board's Website about the event as support.

The Board was referred to an inventory prepared by the GLC for the Board that included the status of complaints filed, pending requests and recommendations made to the Commissioner of Public Safety. It was reported that as of March 11, 2002, the Board had 19 active cases, 29 closed cases and 3 suspended cases.

It was reported that the Board's report for the first quarter is forthcoming and would be mailed to the CPRB in advance of the Board's next monthly meeting.

Training was discussed. It was reported that the City of Albany Citizen's Police Academy is scheduled to begin on Tuesday, March 26th and that Academy classes would be held Tuesday evenings 6:00 p.m. to 9:00 p.m. at the Public Safety Building located at 165 Henry Johnson Boulevard unless noted otherwise. Michael Whiteman asked whether the schedule of sessions for this Academy class are different from the ones that the Board had already attended. Commander Breen responded that the sessions will be different and encouraged Board members to attend the sessions. Mr. Whiteman asked if the sessions that have substantive changes to material could be flagged. Commander Breen responded that they could.

Dates for the Board's next two training sessions were discussed. Training sessions were scheduled for March 28th and April 18th from 6:00 p.m. to 8:00 p.m. at Albany Law School and Ms. Cintrón agreed to send each member confirmation by mail.

D. *Report from the Office of Professional Standards (OPS)*

Commander Paula Breen gave the report from OPS. Commander Breen encouraged Board members' attendance at the next Citizen's Police Academy. It was reported that the Police Department's Standard Operating Procedures Manual is in the process of being revised and rewritten.

Commander Breen extended an invitation to the Board to attend a luncheon meeting of the racial profiling/bias-based policing task force scheduled for 12:00 noon on March 13th at the Public Safety Building, Henry Johnson Boulevard. She also extended an invitation to the Board to attend a breakfast buffet honoring the Police Captain who is retiring.

She reported that the Annual Report is in draft stage and will be forthcoming, and reiterated that the Board is welcome to stop by OPS and review complaint files at any time.

Commander Breen noted that Dr. Alguero and Ms. Thompson had recently attended a Police Department training program given by national trainer and police psychologist Dr. Kevin Gilmartin. Dr. Alguero noted that the program entitled "Emotional Survival for Law Enforcement," covered, in part, the reasons why there are "bad apples" in the Police Department, including civil service apathy, lack of supervision, reprisals, etc.

Chairman Cox added that the Department has been more proactive in police officer training.

VII. Public Comment

Chairman Cox opened the floor for public comment. No comment was offered.

VIII. Adjournment

A motion was made to adjourn the meeting. Marilyn Hammond seconded the motion. The motion carried unanimously. The meeting was adjourned at 8:55 p.m.

Respectfully Submitted,

Michael Whiteman
Secretary