

City of Albany
Citizens' Police Review Board
April 8, 2002 Meeting

HBH Room - Albany Public Library (Washington Avenue)

In Attendance: Manuel Alguero, Barbara Gaige, Judith Mazza, Herman Thomas, Eleanor Thompson, Paul Weafer, and Michael Whiteman

Absent: Kenneth Cox, Marilyn Hammond

I. Call to Order & Roll Call

Vice Chairman Herman Thomas called the meeting to order at 7:00 p.m.

II. Approval of the Agenda

The agenda was reviewed. Paul Weafer moved to accept the agenda. Michael Whiteman seconded the motion. The motion carried unanimously.

III. Approval of Last Meeting Minutes

The March 2002 minutes were reviewed. Michael Whiteman moved to accept the minutes. Paul Weafer seconded the motion. The motion carried unanimously.

IV. Committee Reports

A. *Public Outreach.* Michael Whiteman reported that he, Barbara Gaige and Manuel Alguero attended an outreach meeting with the Caucus of the Albany Common Council. Dr. Alguero commented that the meeting went well, and noted that the Public Safety Committee congratulated the Board on the job that it is doing.

V. Old Business

CPRB No. 40-01. Michael Whiteman reported on this complaint. He noted that at the Board's March meeting, Karleen Karlson of the Government Law Center reported that this complaint was successfully mediated. However, the Board had not made a formal finding of "mediated" with respect to the complaint. Mr. Whiteman then moved to make finding of "mediated." Judith Mazza seconded the motion. The motion carried unanimously.

CPRB No. 43-01/OPS No. C01-524. Michael Whiteman reported on this complaint. He noted that the Board had previously attempted to take action with respect to the two elements of the complaint, but that there were not sufficient votes to act on either of the

issues. He reported that there were four affirmative votes in favor of accepting the findings of OPS and two votes against. He added that two members abstained from voting. Paul Weafer moved to table the complaint until the Board's May meeting to allow time for the newest member of the Board, Barbara Gaige, to review the complaint before a second vote is taken, and directed the Government Law Center to draft appropriate letters notifying the complainant, the affected officer(s) and the Commissioner of the reason for the delay in rendering a finding. Dr. Manuel Alguero seconded the motion. The motion carried unanimously.

CPRB No. 01-02/OPS No. C01-515. Paul Weafer noted that a monitor had been appointed to this complaint, but that the monitor could not attend the meeting due to the illness of his child. Mr. Weafer moved to table the review of this complaint until the May meeting to allow the monitor the opportunity to address the Board's questions, and directed the Government Law Center to draft the appropriate notices explaining the Board's delay in rendering a finding with respect to this complaint. Michael Whiteman seconded the motion. The motion carried unanimously.

VI. New Business

A. *New Complaints Filed.* Paul Weafer reported that six new complaints were filed since the Board's last meeting, and gave a summary of the complaints:

1. CPRB No. 9-02 - alleges rudeness and incivility. A monitor was not appointed to this complaint.
2. CPRB No. 10-02 - alleges rudeness, incivility and excessive use of force. A monitor was appointed to this complaint.
3. CPRB No. 11-02 - alleges rudeness and harassment. A monitor was not appointed to this complaint.
4. CPRB No. 12-02 - alleges offensive profanity and rudeness. A monitor was not appointed to this complaint.
5. CPRB No. 13-02 - alleges rudeness, false arrest based upon error. A monitor was not appointed to this complaint.
6. CPRB No. 14-02 - involved a 1999 incident which was filed with the old board and investigated by OPS. Lieutenant Anthony Bruno reported that there had not been any new investigation or new information with respect to the investigation of the previously filed complaint. A motion was made to hold this complaint over for a review of the allegations. Michael Whiteman seconded the motion. The motion carried unanimously.

B. *Complaint Review.*

CPRB No. 31-01/OPS C01-446. Eleanor Thompson gave a summary of the complaint. The complainant alleged that while she was being processed in the booking room of the Police Department, she turned over her prescription eye glasses and hair tie to the arresting officer. The complainant alleged that these items were never returned to her. The video tape of the booking room was reviewed, and it showed that the officer received the items in question, but that the officer did not properly secure the envelope. OPS made a finding of “*ineffective policy or training.*”

Dr. Alguero asked if the complainant had any recourse with respect to the loss of this property. Lieutenant Bruno responded by saying that the complainant would need to file a claim with the Corporation Counsel’s office to receive reimbursement for her glasses. However, Lieutenant Bruno informed the Board that his office has submitted the claim on the complainant’s behalf to speed up the process.

Lieutenant Bruno gave a brief history of the department’s policies regarding property that is turned over during booking, and reported that the department does not have a single policy with respect to all aspects of securing and moving property in and out of the booking room. He added that his office is recommending that the department’s policy be rewritten to cover all aspects of securing and moving property in and out of the booking room. Ms. Thompson requested that the Board be informed of the new policy and notified of when the policy will take effect. Lt. Bruno agreed to notify the Board.

Paul Weafer moved to accept the finding of OPS and make a finding of “*ineffective policy or training,*” and requested that the Board be informed of the new policy and notified of when it will take effect. Dr. Alguero seconded the motion. The motion carried unanimously.

CPRB No. 32-01/OPS No. C01-447. Michael Whiteman gave a summary of this complaint. The complaint involved a traffic stop in the area of Clinton and Lark Streets in Albany. There was a suspicion of a drug transaction inferred by the police officer. The officer stated that the complainant’s vehicle was stopped because the headlights were not on. A second officer arrived at the scene. The first officer questioned the complainant while the second officer questioned her friend. The complainant alleged: 1) that her vehicle was improperly searched because although the first officer asked to search her vehicle, she consented because she was unsure of her rights and when she asked if permission to search the vehicle could be revoked, the officer allegedly said that it was too late; 2) that the officer used inappropriate language interpreted by the complainant as religious bigotry when the officer called her a JAP (Jewish American Princess) and a “Diamond Trader;” and 3) that the officers engaged in an inappropriate pat down search of both the complainant and her friend because the officers were not of the same sex. Mr. Whiteman noted that the police officers involved did not fill out the paperwork to document the search of the vehicle. Mr. Whiteman also noted that the officer denied being asked about the consequences of withdrawing the consent to

search the vehicle, and denied that the complainant withdrew her consent.

It was reported that a monitor had been assigned to this complaint and that OPS made the following findings: “not sustained” as to the improper search of complainant’s vehicle and “sustained” as to the inappropriate language - religious bigotry. Mr. Whiteman noted that the officers were not questioned about the pat down search and a finding was, therefore, not made on this issue.

With respect to the officer’s inappropriate language, Mr. Whiteman reported that the officer admitted to everything that the complainant reported the officer said, however, the officer claimed that he was trying to be humorous. According to Lt. Bruno, the officer’s inappropriate language violated the Department’s Standard Operating Procedure

There was discussion about the department’s policy with respect to revoking consent to search in this situation. Lt. Bruno stated that there was consent to search the vehicle, but that at anytime the individual could revoke consent. Lt. Bruno added that when consent is revoked, the officer must stop the search and commented that the officer’s are encouraged to fill out consent forms documenting consent and revocation of consent. He noted, however, that this procedure is recommended, but not required by the department.

There was a brief discussion regarding the pat down search and whether it would have been appropriate to conduct the search with a baton or to have a female officer conduct the search. Lt. Bruno commented that the department does not have a policy that requires a female officer to search a female as was the case here. However, if it were an intrusive search, under clothing or skin, then the search must be conducted by an officer of the same gender.

The passenger in the complainant’s vehicle was present at the meeting and was recognized by the Board. She stated that the search took a half hour to complete. Regarding the disparaging remarks, she reported that the first officer was searching the vehicle while the second officer conducted the pat down search and noted that the second officer apologized for the first officer’s comments. She reported that the revocation of consent was made to the second officer, but the second officer failed to notify the officer conducting the search of the vehicle that consent to search had been revoked. The passenger stated that both she and the complainant were not sure of their rights in this situation and that they had both conveyed this to the officers.

Judith Mazza noted that it is the responsibility of the Police Department to inform people of their rights (e.g., the consent to search).

Judith Mazza asked whether or not the complaint was directed at both officers. It was reported that the complaint was directed at only one officer.

Michael Whiteman moved to accept the findings of OPS, make a finding of: “not sustained” as to the improper search and “sustained” as to the claim of derogatory language, and return the issue of the pat down search to OPS for further investigation. Eleanor Thompson seconded the motion. The motion failed.

Judith Mazza moved to accept OPS’ finding with respect to the use of derogatory language, make a finding of sustained as to that allegation, and return both the improper search and the pat down search allegations to OPS for further investigation. Dr. Alguero seconded the motion. The motion carried unanimously.

CPRB No. 35-01/OPS No. C01-466. Barbara Gaige summarized the complaint. The complaint involved a call for a burglary in process at the Mobil station at Krumkill Road and New Scotland Avenue. The complainant stated that he pulled into the Mobil station to use the pay phone because he had just left his girlfriend’s house and realized that he had locked himself out of his home. He pulled into the gas station to call his brother so that he could obtain a spare set of keys to get into the house. Upon seeing the police officer at the Mobil station, he proceeded to the Mini Chopper on New Scotland Avenue to use the pay phone. He claimed that he tried to make his telephone call, but found the phone to be inoperable. After leaving the parking lot, the complainant noticed that a car had pulled up very close to him. He realized that it was a police officer and the officer told him to pull over. The complainant pulled over and was asked for his license and registration. He asked why he was being pulled over. The complainant alleged that the officer refused to answer the complainant’s questions and that the officer called the complainant a “Punk” and threatened him with arrest. After being detained, the complainant went to his home and called 911 to find out where to fill out a complaint. He was informed that he needed to go to the Police Station on Madison Avenue, which he did. The complainant stated that the officer taking the complaint was very pleasant.

After a discussion of the investigation, Ms. Gaige moved to accept the finding of OPS and make a finding of “not sustained” as to the allegations contained in the complaint. Paul Weafer seconded the motion. The motion carried unanimously.

Michael Whiteman noted that there have been frequent allegations concerning an officer’s failure to inform a complainant why he or she is being pulled over or detained and concerning an officer’s failure to provide a name and shield/badge number.

CPRB No. 38-01/OPS No. C01-491. Vice Chairman Herman Thomas summarized the complaint. The complaint involved a woman who was brought to Albany Medical Center for treatment, but after being discharged, she refused to leave because she did not have transportation. The hospital offered her a place to stay in the lobby overnight, but she said no. She was also offered a ride home, but she refused. The police were called to remove her from the hospital and the file indicates that she was uncooperative. The complainant alleged that the officer(s) used force to remove her from the hospital. She alleged that she was dragged out of the Emergency Room.

It was reported that Detective Hendrick went to complainant's house and to interview her. Vice Chairman Thomas reported that he also spoke her on the telephone and noted that the complainant was unable to make it to the meeting.

Vice Chairman Thomas reported that there was nothing in the reports or the pictures in the complainant's file to indicate that she was abused. He added that only bruises on the complainant were from the IVs, which she received at the hospital.

Vice Chairman Thomas moved to accept the finding of OPS and make a finding of "unfounded." Dr. Alguero seconded the motion. The motion carried unanimously.

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

The following members were appointed to the Committee on Complaint Review for the May meeting: Manuel Alguero, Barbara Gaige, Marilyn Hammond, Judith Mazza and Paul Weafer.

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

The report was given by GLC Staff Attorney Justina Cintrón. It was reported that there are 22 active files before the Board, that 32 cases have been closed, and that 3 complaints remain suspended. It was reported that the Board's Web site had been updated and that the annual report had been posted. Ms. Cintrón noted that the annual report's appended materials are not accessible on the website, but individuals wishing to obtain a copy of these materials are instructed to contact the Board.

It was reported that a draft of the Board's first quarter report for 2002 had been completed. Paul Weafer moved to accept the quarterly report. Barbara Gaige seconded the motion. The motion carried unanimously.

The upcoming training scheduled was mentioned: April 20th and May 4th from 9:00 a.m. - 11:00 a.m at Albany Law School. It was reported that the May 4th session would be devoted to developing a monitoring process and that both the Board's monitors and OPS would be invited to attend.

It was reported that the Board's monitor, Bruce Androphy, resigned, but that he had agreed to complete his one outstanding case. Paul Weafer noted that there are currently no minority monitors. Judith Mazza asked if one person could be hired as a paid monitor either on a full or part-time basis. Manuel Alguero commented that he prefers to have a pool of monitors with diversity. Mr. Weafer asked how many other review board's have a full or part-time monitor and directed the GLC to research this issue for the Board's next meeting. Ms. Cintrón agreed to have the GLC research this issue and report back to the Board at its next meeting.

It was reported that The Center for Law and Justice is looking for sponsorship for their

upcoming conference on criminal justice and that if the Board wished to sponsor the event, while it could not provide monetary support, it could support the conference by other means (i.e., an announcement about the conference on the Web site).

The GLC advised the Board that a decision would need to be made about the date and time of the Board's monthly meetings over the summer months.

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

Lieutenant Bruno gave the report. It was reported that the police academy classes are being held Tuesday nights, and those who are interested should contact his office for locations and times of the meetings. Board members were encouraged to attend.

It was reported that there is an in-service scheduled for officers, commonly referred to as "charm school." Lt. Bruno invited the Board to view the curriculum.

It was reported that Commander Paula Breen has assumed full responsibility of the Department's administrative affairs and will no longer be the head of OPS. It was reported that OPS will shortly be posting a new Sergeant position.

VII. Public Comment

The floor was opened for public comment. No comment was offered.

Dr. Alguero mentioned that while the board has seen few complaints of excessive use of force, there are many complaints of rudeness and discourteous behavior, and inappropriate language usage on the part of the police officers. He also noted that in many of the complaints, the police officers are not forthcoming with their name or shield number.

Paul Weafer added that if half of the allegations of incivility and rudeness are eliminated, then it would raise the level of the police department.

Michael Whiteman commented that he believes that these types of incidents need to be taken seriously because unaddressed or insufficiently addressed, they could be harbingers of more serious complaints. He is interested in the statistics from other police departments on types of complaints.

Eleanor Thompson agreed with Mr. Whiteman and commented that the little things will exacerbate into something larger.

Judith Mazza commented that she is interested in knowing how many officers were involved in complaints in the first year and the range of discipline. She mentioned that the CPRB was supposed to receive some type of report on discipline from the Commissioner. Lt. Bruno responded by saying that the Department is working on such

a report, and that the Board should expect it shortly.

Paul Weafer announced that Glen Bruening, Assistant Director of the GLC, will be leaving the GLC, and thanked him for his service to the CPRB.

VIII. Adjournment

The meeting was adjourned at approximately 8:55 p.m.

Respectfully Submitted,

Michael Whiteman
Secretary