

City of Albany
Citizens' Police Review Board
Albany Public Library (HBH Room) Washington Avenue
June 2, 2003
6:00p.m. – 9:00 p.m.

Present: Kenneth Cox, Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, Eleanor Thompson, Michael Whiteman and Paul Weafer

Absent: Manuel Alguero

I. Call to Order & Roll Call

Chairman Kenneth Cox called the meeting to order at 6:07 p.m.

II. Approval of Agenda

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

III. Approval of April 2003 Meeting Minutes

The minutes were reviewed. Chairman Cox moved to approve the minutes. Barbara Gaige seconded the motion. The motion carried unanimously.

IV. Old Business

A. *Three (3) old complaints for review*

CPRB No. 15-02/OPS No. C02-169 (Presented by Michael Whiteman)

Mr. Whiteman summarized the history of the complaint. He noted that the Board had received the Office of Professional Standard's report of its further investigation of the complaint, which largely repeated the original position of OPS. Mr. Whiteman commented that he was troubled by the officer's statement in this case. He added that this was the case where the complainant had picked up a known prostitute. According to Mr. Whiteman, one of the questions that the Board had asked was why there was a delay between the time the complainant was seen with the alleged prostitute and the time the officer stopped the complainant. The officer's response was that traffic was heavy and it was not safe to stop. Mr. Whiteman commented that some of the Board members were skeptical of this answer.

He added that he was further troubled by the representation that the officer had probable cause to conduct a search and make an arrest. According to the

investigation, the officer did not receive information from the complainant that he had been propositioned by the woman until later. Mr. Whiteman commented that it appears that the real question is whether the Board believes that it was reasonable for the officer to stop and search the complainant after he had let the alleged prostitute out of the car. He noted that there seems to be some reason for a limited search, which was made just in the immediate vicinity of the driver's seat.

It was reported that OPS made a preliminary finding of *exonerated* with respect to the handling of the traffic stop and a preliminary finding of *not sustained* with respect to the officer's conduct in pushing the complainant during the stop.

Government Law Center Staff Attorney Justina Cintrón noted, for the record, that the Board had made a finding as to the conduct allegation at the last Board meeting and therefore, needed only to make a finding as to the handling of the traffic stop.

Mr. Whiteman moved to accept OPS's finding of *exonerated*. The motion was seconded by Paul Weafer. The motion carried 6-2. All were in favor except Judith Mazza and Eleanor Thompson who both opposed the motion.

CPRB No. 22-02/OPS No. C02-215 (Presented by Paul Weafer)

Paul Weafer summarized the history of the complaint. The complaint involved a situation where a woman had an order of protection against her boyfriend. It is alleged that the boyfriend threatened the young woman and told her that he was going to "f*ck" her up or her car. It was reported that the young woman and a witness observed the boyfriend puncturing all four of the tires on her vehicle. The young woman reported the incident to police.

The investigation revealed that while the young woman was in the process of reporting this incident to an officer, the boyfriend rode by on his bike and the woman and witness identified him as the person who threatened the young woman and punctured her tires. The officer then pursued the boyfriend into his residence. The complainant, who is the boyfriend's mother, was in the residence at the time of the pursuit. She alleged that an officer had his weapon drawn when the officer entered the house and said "stop or I'll shoot." The complainant claimed that the officer "brushed" by her to chase her son.

According to the officer, the officer did not have his gun drawn; it was at the officer's side. The officer said he pulled out his pepper spray because the suspect was a lot bigger than he and because he did not know if the suspect was going to comply. The complainant (mother) said that the officer was rude to her. The officer denied kicking the door open.

Mr. Weafer noted that the 4th Amendment allows for entry into the home without a search warrant when the officer is in hot pursuit. The officer stated that he did not cock his gun and that it was at his side.

The monitor assigned to the complaint, George Kleinmeier, commented that at the meeting where the Board first reviewed the complaint, the Board agreed with OPS's findings, but wanted more follow-up.

Mr. Weafer commented that he had read everything and that there is no question that the officer was in hot pursuit and had to draw his gun. The officer did acknowledge he had to take the pepper spray out but did not use it, and the second officer on the scene explained this to the mother. According to Mr. Weafer, OPS's further investigation was sufficient.

Mr. Weafer moved to accept OPS's preliminary finding of *unfounded* and noted that the questions the Board had wanted answered were answered. The motion was seconded by Eleanor Thompson. The motion carried unanimously.

CPRB No. 2-03/OPS No. C03-03 (Presented by Barbara Gaige)

Ms. Gaige summarized the complaint. The complainant was stopped by an officer on Hawk Street and was asked to give identification. An officer grabbed her coat to see if she had any cigarettes on her. The complainant alleged the officer violated her rights and didn't give her his name and shield number. Before the stop, there was an alarm at Stewarts and a call came from a witness that stated the suspect was wearing a red and black jacket. Review of complainant's cell phone records show that the complainant did call her mother from the scene.

Ms. Gaige noted that the complainant was at the Board's meeting in April and was told that the Department was unable to find the CAD information from the evening that she was stopped. She added that the Board reviewed the case then and requested that OPS (1) determine whether or not the officer used a contact form and (2) why there was a delay in entering the form. In OPS's follow-up investigation report, Sergeant Connelly stated the report was made and the delay was not unusual because of the holidays.

What appears to have happened is when the officer first spoke with the complainant, he thought the incident happened on the evening of the 26th when it really happened on the morning of the 27th. This was the reason why the contact form could not be located initially.

It was reported that OPS made a preliminary finding of *not sustained* as to the police officer's conduct during the stop and a preliminary finding of *exonerated* as to the stop and the handling of the stop.

Ms. Gaige made a motion to accept OPS's findings. Paul Weafer seconded the motion, and the motion carried unanimously.

V. New Business

A. New Complaints

1. Received since 4/14/03 meeting

Ms. Gaige noted that the Board had received five (5) new complaints since its April 14, 2003 meeting. Ms. Gaige provided the following summary with respect to each of those complaints.

CPRB No. 14-03: Complainant was involved in a motor vehicle accident on March 16th at 3:30 a.m. According to the complainant, the other driver was visibly intoxicated and vomited on the street. An officer arrived and allowed the other driver to drive home. The complainant alleges that when questioned about why the officer was allowing the other driver to leave and why he wasn't administering a breathalyzer, the officer replied that they didn't have that kind of technology in Albany and that the driver barely passed a sobriety test. When the complainant received a copy of the accident report, the officer omitted any wrongdoing on the driver's behalf. In addition, the officer failed to correctly identify where damage was on the complainant's car. The complainant alleges the officer failed to fulfill his responsibility to be honest and fair and either knew the other driver or knew he was intoxicated and allowed the driver to leave the scene. The complainant also claims the officer endangered the welfare of innocent people. A monitor was assigned to this complaint.

CPRB No. 15-03: The complainant stated that during a disagreement with her boyfriend, two officers tried to kick in their door. Officer 1 asked the complainant if she was hurt. She replied "No" and he replied, "Yeah, you're the perfect picture of health." Officer 1 then "pushed the door open" as the complainant was trying to put pants on and when the complainant's dog came out, Officer 1 drew his weapon on the dog and "started screaming get your dog back." The complainant returned the dog to the house and asked for the officers' names and badge numbers. Officer 1 then asked for the complainant's name, which she replied that it was none of their business because she did not call them and there was no problem. Officer 1 then arrested the complainant for "impersonating." As she was trying to put her pants on, she alleges Officer 1 "violently cuffed" her and dragged her downstairs while the complainant asked if she could pull her pants up. Allegedly, Officer 1 pushed and dragged complainant through a large puddle and when the boyfriend tried to pull the complainant's pants up, he was told to get back. The complainant was taken to St. Peter's Hospital, given a tetanus shot because the cuffs cut her skin, was examined, photographed, x-rayed, and given pain medication. According to the complainant, Officer 2 was "not a part of the abuse" and was actually helpful. Officer 2 picked up the complainant's pants, put

on her sneakers, and tried to assist her in maintaining her balance, but Officer 1 “kept pulling [her] away from him.” A monitor was assigned to this complaint.

CPRB No. 16-03: This is the companion case to 15-03. The facts are the same as those alleged in 15-03. In addition, the complainant stated that when his girlfriend was lying in the puddle, he yelled at the officer “What are you doing. Pick up her pants!” because his girlfriend was completely exposed. The complainant attempted to pick her pants up but was told to get back and then noticed Officer 2 helping to pick her pants up. Officer 1 continued to tell the complainant to get back and asked if he wanted to get arrested. He replied he’d go with the officers, but wanted to lock his door first because he does not “live in a nice neighborhood.” The officer, however, said, “it’s too late, your under arrest!” The complainant was then “maced.” Officer 2 spoke calmly to the complainant, and requested that he listen to Officer 1. According to the complainant, Officer 1 tried to force the cuffs on him, but the cuffs did not fit “due to [the complainant’s] size.” Officer 2 then helped with his cuffs. In booking, it is alleged that an officer stated to his girlfriend, “Don’t worry you’ll be out of here in time for the buffet.” It is also alleged that the officer answered one of the complainant’s questions with “f*ck you.” The complainant claims he spoke to a Captain who stated that everything “sounded like a bunch of bullsh*t and that it never should have happened.” A monitor was assigned to this complaint.

CPRB No. 17-03: The complainant alleges that he requested a readable version of a police report after his vehicle was towed, and was refused. It is alleged that the officer stated, in response to the complainant’s request to receive a legible copy of the report, “I guess the short answer is no.” The complainant then asked to speak with a supervisor and was told none were available. The officer offered him a supervisor’s name instead. No monitor was assigned to this complaint.

CPRB No. 18-03: The complainant was given a lie detector test concerning sexual misconduct allegations. The complainant alleges he was forced to wait a long time before the administration of the test. During the administration, the detective “got upset” and “stormed out of the room” when the complainant answered a general question to gauge the accuracy of the readings. In the process of being questioned about sexual misconduct, the complainant alleges he was asked to close his eyes, to which he thought “was odd.” A detective then told the complainant that he had failed one question, that he was guilty and then proceeded to use profanity (f*cking). The complainant said the detective “began to make threatening gestures with his arms” and he was afraid that the detective was going to hit him. The complainant stated that he wanted to contact a lawyer and the detective said that he could when they were “done.” The complainant claims the investigation was based on speculation and coercion. A monitor was assigned to this complaint.

CPRB No. 19-03: The complainant requested certain documents from the City of Albany under the Freedom of Information Law. The records access officer responded to the inquiry, answered some of the complainant's questions and told the complainant that access to the information he was requesting must be sought through the Administrative Services Bureau of the Police Department. He requested (1) the duty roster of officers scheduled to work on a certain day, (2) access to documents related to the "uses of the fields utilized in a call report print out," and (3) access to the department's Standard Operating Procedures. The complainant alleges he was denied access to such records by a member of the APD. The complainant states that (1) the member of the APD denying his request refused to make the denial in writing, (2) that the member of the APD is not authorized to deny his request once the records access officer already approved the request, and (3) that the member of the APD is in violation of the Public Officers Law when they refused to make the denial in writing. No monitor was assigned to this complaint.

2. Eight (8) new complaints for review

CPRB No. 58-02/OPS No. C02-427 (Presented by Paul Weafer)

Mr. Weafer moved to table review of this complaint until the next meeting to allow time for members of the Board to further review the information contained in the complaint and the monitor's report. Mr. Thomas seconded the motion. The motion carried unanimously.

CPRB No. 60-02/OPS No. C02-507 (Presented by Marilyn Hammond)

Ms. Hammond gave a summary of the complaint. The complainant alleged that an officer manufactured evidence in order to arrest the complainant. The complainant said he was forced into making a statement to officers regarding an incident where his daughter was taken to the hospital with two broken legs. Child Protective Services wanted to terminate parental rights. On August 27th, the complainant made a confession, and the complainant said that officers forced him into confessing. The complainant alleges that the target detective said, "when I come back for you it won't be pretty." The target officer later arrested the complainant. The report reveals that the child's mother took her to Whitney Young and St. Peter's Hospitals. The complainant was arrested for reckless endangerment and acting within a manner injurious to a child.

The complainant was interviewed in jail and the complainant said he swung the child in a pendulum motion. The complainant has since subpoenaed two deceased doctors. As of April 10th, his criminal case was postponed and he was ordered for psychiatric evaluation.

Ms. Hammond made a motion to accept OPS' findings of *unfounded*. Paul Weafer seconded the motion, and the motion carried unanimously.

CPRB No. 66-02/OPS No. C02-548 (Presented by Barbara Gaige)

Ms. Gaige summarized the complaint and the complainant-son's statement. The complaint involved several officers: Officer A, who was first on the scene, Officer B who was second on the scene and who arrived with a Sergeant C and another officer D, and the target officer, Officer E. The complainant-mother alleged that the officer's handling and arrest of her complainant-son was racially-motivated.

The facts are as follows. There was a shooting in Latham and the suspect was a black male in a black leather jacket who was approximately 6 feet tall. The sergeant and an officer on steps of south station saw a man fitting the description walking to Arch Street. He was then stopped and other officers started to arrive because it was a shift change. Officer B jumped out and was the second officer to approach the complainant. B was given the identification and the other two officers approached while Officer A and B went to A's car to check the ID. At the same time, a bus was stopped and searched for the suspect. The officer who had approached that bus called back and said he was going to the other scene. Officer A stated that when the complainant was asked for ID, he said he did not have ID and then he stated he did. The second officer on the scene said the complainant was talking back and a little verbal, and that later in the interview the complainant was getting angry, but was still in control. Officer A and B were away from the immediate scene, however, statements from other officers indicated that the complainant-son kept putting his hands near his waist and pockets. The complainant was advised not to do this, but the complainant became agitated and ultimately was arrested for disorderly conduct. While being escorted to the transport vehicle, the complainant "donkey kicked" an officer in the groin. It was reported that he continued to kick and was uncooperative, making it difficult to handcuff him. The complainant was warned and subsequently sprayed with pepper spray. The officers questioned were not able to corroborate the complainant's claim that he was lifted off the ground. All said he was walked, although resisting, to the transport vehicle. The officers at the scene also said he was never thrown to the ground.

The complainant-mother was recognized. She stated that her son was on his way home from a girlfriend's house when the incident took place. She commented that when she had gotten to the door approximately 7 to 8 officers were around her son; he was trying to get her attention. When she came out, she asked a young officer why they were arresting him. The officer responded that her son was a suspect in a shooting. She noted that the officer's tried to shackle him.

The complainant-son was recognized. He commented that he is not perfect. He commented that he is fighting for his freedom for something that he did not do. He added that he now has a fear of the cops. When he walks, he doesn't feel comfortable given the way he was treated and the fact that he did not do anything

wrong. He noted that it did not have to come to this. Now, he has to go to some trial for something he did not do.

George Kleinmeier, the monitor assigned to this complaint, was recognized. Mr. Kleinmeier noted that because of the high profile nature of this case, he monitored the case very closely. He commented that he also sent a note along to the officers that were involved that if they wanted to speak with him they could. He added that he did not find anything wrong with the investigation.

Barbara Gaige stated that the complainant was initially stopped because he fit a description and further charges for disorderly conduct, assault and resisting arrest all transpired after the initial simple stop.

Ms. Gaige reported that OPS concluded, in its preliminary findings, that the allegations pertaining to the officers' conduct at the scene were *unfounded*, that the allegations pertaining to the arrest authority were *exonerated*, and that the allegations of use of force were *exonerated*.

Marilyn Hammond inquired as to whether the additional officers arriving at the scene could have asked if the complainant-son had already been searched by the first two responding officer so as to have avoided all of this. George Kleinmeier responded that it was all happening quickly and that the complainant-son continued to motion toward his waistband at which time he was warned not to make any movements. It was after the warning that things went badly. The complainant-mother stated when the other officers arrived, the responding officers had already spoken to and searched her son. The officers already at the scene should have said that they just searched him.

Paul Weafer stated that this is a very detailed report and that the second officer was a bike cop. Both officers were African-American and stated to OPS that after the female officer turned her back, Officer E allegedly saw the complainant's son touch his waist band again. All officers agreed that in fact did happen, that E went to grab the complainant's son's arm and that's when they tried to handcuff him. This was tragic and unfortunate, but under the best of circumstances, he didn't know what happened in Colonie and officers didn't know the suspect was already arrested. If he was resisting arrest they didn't know if he was the person that was wanted.

Ms. Mazza commented that the two officers searched him and if they were on the scene first, they should have been in control of the situation.

Commander Anthony Bruno stated that if you are searched and thought to be clean, it would not be the first time you would be searched again. A cop is to always treat a person as armed even if the person is found to be unarmed and even though the person had been frisked and no weapons were found. According to Commander Bruno, it would be prudent for an officer to search again and they are

trained to keep a person's hands away from the body. Thus, he would be treated as not frisked even if he was.

Mr. Weafer commented that there really hadn't been enough time to reaffirm the search because it all happened fast.

The complainant-mother spoke and stated that she respected cops too but that she doesn't want to call them now. "This is a horrible thing to happen. I know it's not true and they are covering up for each other. They know it."

Ms. Gaige commented that the description given by the police officers may have fit the complainant and that the complainant started to get agitated. She then moved to accept OPS's findings. The motion was seconded by Paul Weafer. The motion was defeated, 6-2. All were opposed except for Ms. Gaige and Mr. Weafer who voted in favor.

Ms. Gaige inquired as to what the Board would suggest to be changed. Eleanor Thompson responded by saying "professionalism." According to Ms. Thompson, a person does not expect to be surrounded by a bunch of officers and not go bonkers. If the officers who were there had done their job, there should be some extra training on how to treat people. I think somebody should talk to these officers.

The complainant-mother commented that her son is facing 7 years. She commented, "why would he assault 7 police officers with a back condition? No one wants to fight when his back is out."

George Kleinmeier stated that based on the investigation, the complainant's son was probably minutes away from being released if he had just followed the officers recommendations.

Paul Weafer stated that it happened so simultaneous and at the same time a bus was confronted. The officers didn't have the opportunity to talk to other officers. He wasn't cuffed at that juncture.

Judith Mazza added that two officers were initially trying to make a determination and then 7 to 8 officers were trying to deal with that determination. That is going to scare somebody. In these situations there is an overreaction. She added that she would sustain the complaint.

Barbara Gaige responded that a number of officers said he fit the description of a shooting suspect.

Michael Whiteman noted that he could not decide. He added that the board does not have any direct evidence, there is a lot of conflicting testimony, a fair amount of which are "I don't remember." He

commented that he did not feel that he was in any position to decide. The most appropriate finding appears to be *not sustained* because the Board does not have enough facts.

Vice Chairman Herman Thomas commented that we have to stop thinking that all black men look the same.

Eleanor Thompson added that it's a matter of overreacting. Commander Bruno responded by asking the Board if it had looked at the defendant as overreacting also.

The complainant-mother commented, "I know cops are going to want to get that guy off the street, but they were overzealous by the way they acted to him. He was cooperating, there was no cause for them to handle this the way they did. I can see if he was acting crazy and jumping around, but he wasn't."

Commissioner John Nielsen stated that he understands, however, he noted that there is a 50 page report from the Board's investigator that this was the way it occurred. Commissioner Nielsen commented that the officers don't know what they are facing. The complainant-son is a man who has a criminal history and was use to dealing with the police. All he had to do was stand still. The whole thing would have been over in minutes and he could have been on his way. The facts are there to be seen and everything else is supposition.

Mr. Weafer stated that this is a very difficult case, and that no white person could put themselves in the place of a black person when they perceive them to be harassed. He added, however, that if police officers told him not to move, he wouldn't move.

Assistant Corporation Counsel Todd Burnham commented that the motion to agree with OPS failed and that Michael Whiteman's motion of *not sustained* also failed. Mr. Burnham suggested that the Board address each allegation of the complaint separately.

Barbara Gaige then moved to accept OPS's preliminary finding of *unfounded* in regards to the conduct allegations. Paul Weafer seconded the motion, commenting that there is no evidence within 50 pages of the report of any racial remarks or a racial incident.

George Kleinmeier restated that the description was that the suspect was wearing a black leather jacket and that was what the complainant-son was wearing. He added that black officers stopped him.

Michael Whiteman commented on two things: (1) he noted that in most incidences races are redacted and found it curious that the Board knows that the first two officers on the scene were black, and (2) he commented that he did not

know after the initial stop what the motivation was. Five or six additional officers arriving at the scene were all or predominately non-black. He added that his motion was for finding of *not sustained* because there are not enough facts one way or the other to reach a conclusion.

Barbara Gaige clarified that Mr. Whiteman's motion was for *not sustained* as opposed to *unfounded*.

Paul Weafer asked whether or not Michael Whiteman's motion was made with respect to the racial nature of the complaint. Mr. Whiteman responded that there does not appear, from the record, to have been racial motivations in this complaint.

Barbara Gaige commented that the complainant-son was stopped because he was black and because that's the description that the officers had of the suspect. Ms. Mazza commented that the complaint was that the first two officers were fine, but that the officers who were white ignored the first officers. Thus, the complaint is that the second group of officers was racially-motivated.

Todd Burnham suggested the case should be held over for next meeting.

Michael Whiteman then moved to table the review of this complaint until the next meeting. Vice Chairman Herman Thomas seconded the motion. The motion carried unanimously.

CPRB No. 70-02/OPS No. C02-618 (Presented by Judith Mazza)

Judith Mazza moved to table review of this complaint until next month to allow for more time for Board members to review the investigation more completely. Barbara Gaige seconded the motion, and the motion carried unanimously.

CPRB No. 1-03/OPS No. C03-04 (Presented by Marilyn Hammond)

Ms. Hammond summarized the complaint. The complaint involved two traffic details. The complainant was stopped at both. The complainant alleged that an officer acted in a verbally abusive manner during the first stop, and searched his vehicle and administered a breathalyzer test for "no apparent reason." The complainant alleged that he was stopped the second time by the same officer from the first stop, called a "fat a*ss" in front of his wife and son and told that he did not have a valid insurance or a valid license, which he claimed he did.

Ms. Hammond noted that the dates the complainant gave for the stops were not accurate. She also noted that during the second stop, the complainant's wife admitted that neither she nor the complainant were wearing their seatbelts. The complainant's wife also stated that the officer was not rude when dealing with her and her husband. However, she found the officer's comment snide. Ms.

Hammond added that the complainant's license was run and came back as his insurance being lapsed. The complainant was ticketed for driving without a license and registration. DMV records indicated that his license was suspended for an insurance lapse on 8/12/02.

It was reported that the preliminary findings of OPS were *not sustained* as to the officer's conduct during the stops and *exonerated* as to the officer's handling of the traffic stop. Ms. Hammond commented that this is a case of "he said, she said" and it is difficult to determine without more.

She then moved to accept OPS's preliminary findings of *not sustained* and *exonerated*. The motion was seconded by Judith Mazza, and carried unanimously.

CPRB No. 3-03/OPS No. C03-47 (Presented by Eleanor Thompson)

Ms. Thompson summarized the complaint. The incident happened on December 29th and it is a call handling complaint. The complainant alleged that an officer incorrectly completed an accident report in which the complainant's daughter was one of the drivers. The complainant alleged his daughter advised the officer she wished to have her version of the events included in the accident report and the officer refused to make any changes to the report. The complainant further alleged the driver of the other vehicle stated to his daughter that she, "was looking for her cell phone and wasn't paying attention."

OPS recommended that the investigation be closed as *exonerated*. Officers spoke to both drivers and the officer completed the report in a manner consistent with the officer's accident investigation training. The officer refused to include the other version because the information he obtained, his observations of the damage and his training revealed that the accident was a rear-end accident. Additionally, a contributing factor to the accident was that the complainant's daughter was following too closely. The other driver, whose vehicle was struck, denied stating that she was using a cell phone to the complainant's daughter as well as to officers. In addition, the other driver received a check for the damages from the complainant's daughter's insurance company acknowledging fault.

The monitor assigned to this complaint, Theresa Balfe, commented that she feels that the officer did everything he could have, and that the officer could have written a seat belt ticket but did not. She added that she found it strange that the father was the complainant and not the daughter.

Ms. Thomson made a motion to accept OPS's preliminary finding of *exonerated*. The motion was seconded by Chairman Kenneth Cox, and carried unanimously.

CPRB No. 4-03/OPS No. C03-83 (Presented by Herman Thomas)

Vice Chairman Thomas moved to table the review of this complaint until next month. The motion was seconded by Chairman Cox. The motion carried unanimously.

CPRB No. 10-03/OPS No. C03-153 (Presented by Michael Whiteman)

Mr. Whiteman summarized the complaint as containing allegations of false arrest and subsequent delay of trial. The police received an anonymous tip that someone matching the complainant's clothing and description was selling drugs. The police arrived and stopped the suspect and one went and looked around the area and found a white sock allegedly filled with drugs. The sock's contents were field tested and were confirmed as drugs. Alleged delays in bringing the manner to trial were due to several changes in the complainant's attorneys.

Whether or not there was a delay of trial is not for the Board to decide, but is a matter for the judiciary. As to the arrest itself, OPS made a preliminary finding of *unfounded*. From the record, there appears to have been a basis for the arrest and sufficiency in the arrest. Additionally, the monitor assigned to this complaint, Al Lawrence, concluded that the investigation was thorough.

Mr. Whiteman moved to accept OPS's recommendation of *unfounded*. The motion was seconded by Paul Weafer, and carried unanimously.

B. Appointment of two new members to the Committee on Complaint Review for July 2003

The following Board members were appointed to the Committee on Complaint Review for the July 2003 meeting: Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer.

C. Reports

2002 Annual Report

The 2002 Annual Report was presented by Chairman Kenneth Cox and reviewed by the Board.

Second Quarter Report for 2003

The Second Quarter Report was presented by Chairman Kenneth Cox and reviewed by the Board.

Chairman Cox commented that both reports were very thorough and made a motion to accept the reports. The motion was seconded by Vice Chairman Herman Thomas. The motion carried unanimously.

D. Report from the GLC

The report of the Government Law Center (GLC) was given by Staff Attorney Justina Cintrón

Status of Complaints

It was reported that 22 complaints remain active, 97 complaints have been closed, 7 complaints were referred to mediation and 4 complaints remain suspended.¹

Outreach

It was reported that members of the Board had attended two outreach meetings since the Board's April meeting.

On May 7, 2003, Marilyn Hammond and Judith Mazza participated in an outreach meeting with the Capital District Gay and Lesbian Community Council.

Ms. Mazza commented that the Council has a new Executive Director whom they met at the meeting. She added that the Council felt that many members of the community are still unaware of the existence of the Board and suggested that the Board prepare an article about the Board and how to file a complaint for inclusion in the Council's newsletter.

On May 29, 2003, Chairman Kenneth Cox, Marilyn Hammond, Judith Mazza, and Eleanor Thompson participated in an outreach meeting with members of the Board of the Center for Law and Justice.

Ms. Thompson commented that the meeting was very informative and gave the Board an idea of how to carry on with the data that the Board has collected.

Ms. Cintrón, who was also in attendance at the meeting, summarized her notes. There was discussion with respect to the board's power to make policy recommendations. There was a suggestion for this to be added to the monthly meeting agenda. There was also a suggestion made to include a report from the Commissioner on the monthly meeting agenda as well.

Training

On April 21, 2003, the Board attended a training on racial profiling conducted by Lenese Herbert, a visiting professor of law at Albany Law School.

¹ The active and closed figures were inaccurately reported at the meeting. The following were the accurate figures as of 6/2/03: 28 active, 93 closed, 7 referred to mediation and 4 suspended

Mediation

It was reported that Staff Attorneys Karleen Karlson and Justina Cintrón had participated in a conference call with Assistant Corporation Counsel Todd Burnham and Commissioner John Nielsen regarding outstanding complaints in mediation. The Commissioner agreed to follow-up on those mediation items that need to be addressed. It was also reported that Ms. Karlson met with Sergeant Kevin Connelly and Jim Teller, President of Council 82 about how to better facilitate the mediation program.

Correspondence

Four letters drafted at the Board's request were forwarded to the Board for its review. It was reported that one of the letters related to a new complaint filed with the Board involving a request for departmental records made pursuant to the Freedom of Information Law. The second letter relates to a departmental strip search policy. The third letter requests a policy review of the department's policy pertaining to handcuffing minors during the execution of a search warrant, and the fourth letter is an invitation to the leadership of the police union to participate in an outreach meeting with members of the Board. It was reported that all letters require the Board's input before they can be forwarded to the appropriate parties.

Meeting Dates

It was reported that one of the members of the Board will not be able to attend Board meetings on Mondays during the summer months. Tuesdays were suggested as an alternate meeting day. It was decided that the Board would meet on Tuesday, July 1st and Tuesday, August 19th.

E. Report from OPS

Commissioner John Nielsen addressed the Board. Commissioner Nielsen commented that because of needs within the Police Department, the Department had moved Commander Anthony Bruno out of OPS to a position as the night commander. Commissioner Nielsen introduced Stephen Riley as the new commander of OPS and Jim Teller as the new president of Council 82. Commissioner Nielsen noted that Commander Reilly has replaced Commander Bruno effective immediately.

Chairman Cox offered the Board's thanks to Commander Bruno and Commissioner Nielsen for their positive relationship with the Board.

Michael Whiteman commented that while the Board and Commander Bruno sometimes do not see eye to eye, it has always been a pleasure dealing with Commander Bruno. Even if we disagreed, we could always shake hands.

Eleanor Thompson added that in the months that the Board has dealt with Commander Bruno, he has always been a true professional.

Commissioner Nielsen stated that on the day he took office, OPS was and still is the moral compass of the department. It's the sword within the department and shield relative to the community. The Commissioner commented that there is a tremendous amount of work to do and this Board is a success, at least in part because Commander Bruno always did a great job. Commissioner Nielsen commented that he thought hard to fill his position and these things were done to improve the quality of life at the street level. The department has made dozens of arrests and now the city is a safer place. Moving the deputy chief and Commander Bruno into tactical positions will benefit the city greatly. The Commissioner commented that he is very confident with his new decision and has been told that it was a good decision. He added that he is confident that the Board will be equally pleased with Commander Reilly.

Vice Chairman Herman Thomas added that he'll miss the Commander.

Paul Weafer commented that the Commander always returned every phone call and did a fabulous job. He added that the entire staff is professional because of Commander Bruno.

VI. Public Comment

Dr. Alice Green was recognized and commented that she would start off by echoing the sentiments of all about Commander Anthony Bruno. She added that the Commander has gained a lot of local trust.

Dr. Green then addressed issues of concern. One is a procedural issue. She inquired as to who is allowed to comment while cases are being reviewed. Chairman Kenneth Cox responded by saying that only people who were directly involved and counsel may comment during review.

Dr. Green commented that there might not be the level of understanding about institutional racism that is needed. Some comments made by Board members suggest that there is a lack of real understanding of racism.

Dr. Green also discussed the assault charges that were discussed during the review of CPRB No. 66-02/OPS No. C02-548. She stated that, historically, many people have had assault charges because of similar situations. Officers can be frightened and fearful that some might have a weapon. It's also understandable that someone might respond to the police in a hostile way. She commented that she knows many people that have been put in prison when they were simply reacting in a normal way. She added that maybe "we" could think about how we can work with the DAs to train police officers on how to stop leveling assault charges when they aren't really assaults.

Dr. Green commented that there are policy issues that she is concerned about. She noted that she has made the suggestion that time be set aside for policy issues at each monthly meeting. She added that it is Center for Law and Justice's understanding that the police department had developed a zero tolerance policy, commenting that she is not sure what effect the policy will have on the community. She also inquired about a letter that was to be sent regarding police officer attitudes.

Mr. Weafer commented that he believed that the letter was sent.

Commissioner Nielsen commented that relative to the racial profiling policy, he would look into what has been done. He noted that "zero tolerance" is a term used by the newspaper and not a term that the department uses. He added that quality of life issues are key and that the department has been aggressive in its policing. He noted that newspapers always sensationalize. Relative to the Christmas Eve shooting incident, the Commissioner reported that the Grand Jury had concluded its investigation. He added that the department has been notified regarding the impending civil suit. He did not feel it was appropriate to discuss the case in open session, but agreed to do so in executive session.

Michael Whiteman commented that on that particular complaint, there are two levels of inquiry. The first inquiry being what really happened and the second inquiry being why the deceased gentleman's mother has not received any communications from the department despite several repeated attempts to access information. As to the second issue, Mr. Whiteman noted that the circumstances were troubling.

Commissioner Neilsen responded that the mother has, through her attorney, requested the information pursuant to the Freedom of Information Law. He commented that there have been many discussions with her about the case. However, the department is not prepared to release certain information because of the impending litigation.

Mr. Whiteman stated that the complaint was that she hadn't even been told by the department that it would not release the information. Commissioner Nielsen responded by saying her lawyer had contacted the department. He added that he did not feel that she was genuine and added that he would not classify her verbal claims as a complaint. He commented that the department is not trying to hide anything. However, the department is supportive of the officer. He stated that this is tragic from both sides.

Dr. Green commented that the mother had sent the department a letter that was never responded to. Commissioner Neilsen replied that she had sent a Freedom of Information request and that the request was forward to the department's attorney.

Council 82 President Jim Teller was recognized. Officer Teller commented that he is the new president of the local union and he wanted to inform the Board that the union will be working to review some of the policies and procedures of the Board. He added that the union will be meeting with the city attorneys and will be sending a letter to the Board regarding corrections that need to be made to its policies and procedures.

VII. Adjournment

Chairman Kenneth Cox moved to adjourn the meeting at 8:57 p.m. The motion was seconded, and carried unanimously.

Respectfully Submitted,

Michael Whiteman
Secretary