

City of Albany
Citizens' Police Review Board
Albany Community Development Agency (Community Room)
200 Henry Johnson Boulevard
August 19, 2003
6:00p.m.–8:00 p.m.

Present: Kenneth Cox, Barbara Gaige, Marilyn Hammond, Herman Thomas, Eleanor Thompson, and Paul Weafer.

Absent: Manuel Alguero, Judith Mazza, and Michael Whiteman.

I. Call to Order & Roll Call

Chairman Kenneth Cox called the meeting to order at 6:13 p.m. Chairman Cox commented that the Board was delayed starting the meeting because a quorum of its members were not yet present to conduct business. Chairman Cox added that the Board, however, would proceed with the non-business items of the agenda. He commented that the Board is trying to allow for a more effective public comment period. To do so, he proposed that members of the public sign a sheet at the start of the meeting indicating that they would like to comment and that a time limit be imposed of five minutes.

II. Approval of Agenda

The agenda was reviewed, but could not be approved due to lack of a quorum.

III. Approval of July 2003 Meeting Minutes

The minutes were reviewed, but could be not approved due to lack of a quorum.

IV. New Business

A. *New Complaints*

1. Received since the July 1, 2003 meeting

Barbara Gaige noted that three (3) new complaints had been received by the Board since its last meeting in July 1, 2003.

CPRB 20-03: The complainant alleges that after being told by an officer that she had “hit and damag[ed] a Deputy Vehicle,” the officer made her shut off her vehicle while it was in drive, “not let[ting] [her] do the proper procedure for operating [the] vehicle.” After “no report was

taken and [the] officer returned [her] car keys,” the car “could not go into shift.” The complainant claims that her car had to be towed and serviced by the dealer. No monitor was assigned to this complaint.

CPRB 21-03: During an incident in which the brother of the complainant’s friend was being arrested, the complainant alleges another officer started yelling at her to “walk away.” When she began to move, she alleges an officer “grabbed [her] arm and threw [her] up against the wall,” which made her shoes come off and caused her cell phone to drop to the ground. The complainant tried to grab her stomach and yelled to the officer that she was pregnant. The officer allegedly responded, “don’t you know I can see that, I don’t care” and grabbed the complainant to throw her against the wall again. Another officer then hand cuffed the complainant and “threw [her] into the back of the police car.” When the complainant’s sister and cousin tried to give the officer the complainant’s shoes, the officer allegedly threw the complainant’s shoes at her while she was in the back of the police car. The complainant was subsequently taken out of the police car and thrown into the wagon. The complainant was arrested for disorderly conduct and resisting arrest and was told she would have to spend the night in the holding cell. While in booking, the arresting officer noticed the complainant’s hands swelling and “marks and bruises starting to appear.” She was given an appearance ticket and let go. The complainant asserts she went to the hospital because she was “feel[ing] weak and pain on [her] right side.” The ER allegedly found “several marks from the incident,” and the complainant claims that she had to be placed on a baby monitor for several hours and had to stay overnight. A monitor was assigned to this complaint.

CPRB 22-03: The complainant alleges that he received a call from an officer at his home asking if he would come to the police station and answering questions regarding a fire. The complainant stopped at the station, was read his Miranda rights, and was questioned regarding his involvement in the fire. The complainant stated that he would not answer questions without his lawyer present and asked if he was free to go. The officer replied “just hold on, hold on!” and the complainant “considered [him]self in custody and about to be arrested.” The complainant was asked to submit to a polygraph and he stated that he would in the presence of his lawyer. The complainant was released. The complainant called to speak with his lawyer and was told he was not in the office (he was in Alaska), so he secured additional counsel. The Complainant then “completed a three-day” detox treatment and upon release was informed that an officer was “looking for [him].” The

complainant contacted the officer and was told to “draw up a list of [his] belongings at the site of the fire” and to come to the station. The complainant informed the officer that he had retained a lawyer and would not speak with the officer without his lawyer. The officer allegedly told the complainant “not to call [his] lawyer because the case was closed” and the officer asked if the complainant could “come by the next day.” The complainant responded that he had to work the next day, but that he would draw up the list and leave it at the station and that he would not meet with the officer without counsel. The complainant left the list at the station and proceeded to work, where an officer came and “led me out of the building to an unmarked police car.” The complainant requested counsel and officers responded “your lawyer is in Alaska” and “that’s right and nobody can help you now.” The complainant alleges that at the station, an officer stated “that he was going to arrest me for attempted murder unless [the complainant] confessed.” The complainant then “gave the statement in question” and alleges that “at no time [were his] Miranda rights given to [him],” that an officer “merely had me sign off on them after I gave [his] statement.” A monitor was assigned to this complaint.

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

The following Board members were appointed the Committee on Complaint Review for the September 2003 meeting: Manuel Alguero, Barbara Gaige, Marilyn Hammond, Judith Mazza, Paul Weafer, and Michael Whiteman.

C. *Policy Recommendations*

It was reported that a new item has been added to the monthly meeting agenda entitled “Policy Recommendations.” A report regarding the Board’s recent policy recommendations was provided by Government Law Center Staff Attorney, Justina Cintrón. It was reported that the Center had sent correspondence to the Public Safety Commissioner: 1) seeking a follow-up report on the department’s strip search policy; 2) seeking a review of the department’s policy on handcuffing minors during the execution of a warrant; and 3) requesting a follow-up on the a request forwarded by the Board on a complainant’s behalf seeking a non-confidential copy of the department’s Standard Operating Procedures.

D. *Report from the GLC*

The report was given by GLC Staff Attorney Justina Cintrón.

Status of Complaints

It was reported that 28 complaints remain active, 96 complaints have been closed, 7 complaints have been referred to mediation and 4 complaints remain suspended. It was also reported that a total of 135 complaints have been filed with the Board since it began hearing complaints in 2001.

Mediation Report

It was reported that at the request of the Board, Karleen Karlson sent correspondence to each complainant asking that they contact her to discuss what has been going on with respect to the mediation program. She received one call back. The complainant was initially unwilling to proceed. However, Karleen explained that the Board is making progress and the complainant agreed to participate in mediation should the issues be resolved soon.

It was also reported that the GLC was in the process of scheduling a second meeting of the Board and the union to allow an opportunity for OPS and Karleen Karlson to attend. Three dates in September were identified as possible meeting dates: the 15th, 22nd and 29th.

Correspondence

It was reported that the Center had been in receipt of two pieces of correspondence from complainants since the Board's July meeting. The first letter was received by the Center on July 17th on behalf of Chairman Cox from a complainant who wished to speak to the Board about its findings on her case and the reasons why she did not receive notification of the date in which the Board reviewed the further investigation of her complaint. The second letter was received by a complaint on July 8th seeking copies of all records relating to his complaint. Members of the Board were asked to assist the Center in responding to these letters.

It was also reported that the Center had sent three letters to the Corporation Counsel's Office seeking written opinions with respect to the following: 1) the process for appealing a Board determination; 2) whether or not a Board member could hold county or city public office while also serving as a member of the Board; 3) whether or not copying Officer James Teller, President of Council 82, on police officer correspondence violates police officer privacy.

Training

It was reported that the Board's training program would resume in October. Training will be scheduled for the months of October, December, February, and April. Board members were asked to provide ideas for training topics. It was noted that programs on community/police relations and institutional racism have been suggested. Board members were asked to provide dates available for training at the September meeting. Possible training dates identified included: the 6th, 20th or 27th of October and the 1st, 15th, 22nd or 29th of December.

Outreach

It was reported that the Center is working to update the Board's outreach materials and asked that the Board provide its input during this process. In addition, it was reported that the Center is working to schedule additional community outreach meetings for the Fall.

E. *Report from OPS*

The report was given by Commander Stephen Reilly. Commander Reilly introduced Steven Korkoff, who was hired to take the place of Detective Sergeant Kevin Connolly. Commander Reilly provided the Board with his office's second quarter statistics, which included: 37,277 calls for service; 2,565 arrests; and nine (9) civilian complaints.

V. Public Comment

Dr. Alice Green was recognized. Dr. Green commented on the Board's decision to limit the public comment period. Dr. Green stated that she failed to see a problem in the way that the comment period is held because very few people attend the meetings and most of those who are in attendance generally speak for a short period of time. She noted that sometimes there are comments made on issues arising during the meeting, and added that under the new process if an individual does not sign up for comment at the beginning of the meeting, then that person will not have an opportunity to speak.

Melanie Trimble was recognized. Ms. Trimble commented that she was in agreement with Dr. Green that the signing up for comment poses potential problems. However, she added that she did not have a problem with imposing a time limit, which she believed was generous.

Complainant Christopher Kimberley was recognized. Mr. Kimberley noted that he is a taxi driver. According to Mr. Kimberley, he filed a complaint with OPS in February and it was his defense to a criminal charged filed against him. He commented that six months later, the complaint has not yet been heard. He reported that his sentencing is scheduled to take place next week and that he had to plead guilty to a felony. He added that on September 8th when his complaint is heard by the Board, he may not be available because he may "be in jail."

According to Mr. Kimberley, he drafted the report with some hesitation because he has always had a good relationship with the police. He commented that the problem was that where the accident happened, there were several bars and there are usually police everywhere, but not that night. He claimed that he had four females in his cab that evening who were fighting. He reported that when he came to an intersection, several people ran in front of the cab, which he avoided. Then, as he was stopped more people came running in the other direction. The sliding door came open and one of his passengers apparently got her coat caught and had done a swan dive out of the cab. Mr. Kimberley stated that he tried to move and accidentally ran over her leg. He was told later that her

leg was better and not broken. He reported that he tried to avoid a grand jury, but charges were filed and he took a plea bargain. According to Mr. Kimberley, his complaint is that there was no police presence in that area that night, but heard that cab driver's were being pulled over at traffic stops that night. He felt that this was his chance to air his concerns. Paul Weafer commented that the Board ordinarily has complainant's speak for themselves, but has allowed parents to speak on behalf of their children. He added that the Board is going to ask Todd Burnham, Assistant Corporation Counsel, to determine whether or not it is appropriate to have a surrogate speak on the complainant's behalf. Mr. Weafer asked Todd Burnham to communicate his opinion to the Government Law Center.

Mr. Kimberley added that he hoped that there would be a deferred sentence. He noted that he considered the whole thing an unfortunate accident.

Mr. Weafer inquired as to whether the Board has received OPS's report on this complaint. Justina Cintrón responded that it had, and that the complaint is scheduled for review in September.

Chairman Cox commented on the comments made by Alice Green and Melanie Trimble. According to Chairman Cox, the Board has found that with the busy agenda, especially with the number of complaints on the agenda, the Board is always working to find a way to streamline the process and make it run more smoothly and efficiently. He added that the Board will not have people sign up for public comment, but asked that the public please be aware of the time limitation.

Complainant Frank T. Washington, III was recognized. Mr. Washington commented that he felt that any other delays and extensions of the time element, beyond the 6 months, to review his complaint is a "cover up." Paul Weafer apologized for the Board's need to delay reviewing his complaint until a quorum of the Board was present, explaining that the Board has an odd quorum requirement of 7 members to conduct business. Mr. Weafer noted that only 6 members were present at the meeting, an insufficient number to meet the quorum. Mr. Weafer added that the Board intends to address this issue. Mr. Washington responded that if a member of the Board cannot make a meeting, than the quorum needs to be reduced or the member who is unable to appear needs to be removed. Paul Weafer apologized to the complainant for the inconvenience and assured him that there was not a "cover up."

Todd Burnham assured Mr. Washington that the Board made every effort to ensure a quorum so that it could conduct business, but the circumstances are beyond the Board's control. Mr. Burnham apologized for the inconvenience. Mr. Washington responded that he had received a letter notifying him that his complaint would be heard. He added that he is a member of the community and aware of parliamentary proceeding, and feels that when it appears that a matters is going to be difficult, the matter is tabled. According to Mr. Washington, the time extension changes the matter; witnesses change their stories. He commented that he has a background on both sides and that members of his family have been officers.

Board monitor Theresa Balfe was recognized. She commented that she has also been inconvenienced. However, she noted that she has been at meetings where the members are early and stay late. She stated that she was present at the meeting for a case that is five months old, and added that it takes time to interview witnesses and to do the reporting. She commented that she has gotten several calls from the Board where they have asked for more detail in her reporting. She stated that the Board is very thorough.

VI. **Adjournment**

The meeting was adjourned at 6:49 p.m.

Respectfully Submitted,

Michael Whiteman
Secretary