

City of Albany Citizen's Police Review Board

Minutes of Meeting 8/20/2001
Albany Public Library
HBH Room

Present: Manuel Alguero, Morris Eson, Marilyn Hammond, Judith Mazza, Herman Thomas, Eleanor Thompson, Michael Whiteman and Paul Weafer.

The meeting was called to order at approximately 7:10 pm by Vice Chairman Herman Thomas.

Paul Weafer moved to approve the agenda. Manuel Alguero seconded the motion. Patricia Salkin of the Government Law Center proposed that the third quarterly report be included as an agenda item. All approved.

Paul Weafer moved to accept the minutes of the July 16th meeting. Manuel Alguero seconded the motion. All approved.

Paul Weafer gave an update on status of the complaints reviewed at the July Meeting. Judith Mazza asked for clarification as to those complaints being referred to by Mr. Weafer. Paul Weafer responded that the Board had tabled its review of Complaint 01-01 at its last meeting because certain members of the Board wanted more information. Michael Whiteman clarified that the Board wanted more information about the medical condition of the complainant. Paul Weafer added that the allegations of the complaint occurred in 1999, but the complaint was filed in 2001. He asked Lt. Bruno about the Office of Professional Standards (OPS) ability to locate witnesses. Lt. Bruno responded that it was difficult to conclude because of insufficient evidence.

Assistant Corporation Counsel Todd Burnham interjected and passed out a memo from his office addressed to the Board. (See attached). He summarized the memo by stating that if the Board feels that the preliminary report is insufficient, the procedure under the law is to address further inquiry to the Chief of Police in writing, not to the staff of OPS during a meeting.

Paul Weafer clarified by saying that "from now on, OPS will give a written synopsis of the facts in the allegation and its findings and questions regarding the investigation and findings should be directed to the Chief and not to Lt. Bruno or OPS pursuant to § 42-343(E) of the law." He then noted that this new procedure now makes it difficult for the Board to review a case and to render findings and difficult for the Board to request further investigation or seek additional case specific information because the Board must now send a written inquiry to the Chief of Police.

Judith Mazza commented that if OPS's reports are going to be in writing, then their staff need not be present at the meetings. She further commented that this paralyzes the

Board. Todd Burnham responded that this should new procedure would not paralyze the Board because the hope is that the Board will find OPS's preliminary reports sufficient.

Manuel Alguero commented that there is nothing in the law which requires the Board to follow Corporation Counsel's suggested procedure.

Morris Eson asked Todd Burnham to located the section in the law supporting the proposed procedure of submitting inquiries to the Chief in writing. Todd Burnham points out § 42-343(E). After briefly reviewing this section, Mr. Eson asked what that has to do with the CPRB, noting that an ongoing investigation is not concluded and doesn't fall within this section.

Manuel Alguero noted that the law does not say in which fashion the preliminary report should be made and by whom. He added that it can be assumed if OPS's is present, then they can be subject to questioning by the Board.

Judith Mazza commented that she understands the need to provide a written request to the Chief for documents, but added that the Board could not effectively do its job if it is unable to have a discussion with OPS during the meetings.

Manuel Alguero proposed that a committee be formed to consider the Corporation Counsel's memo and suggested that the Board proceed as it had done in the past. Judith Mazza seconded. All approved.

Paul Weafer continued with the update on the status of cases reviewed at the previous meeting by asking Lt. Bruno to continue with his report regarding further investigation of Complaint 01-01. Lt. Bruno responded that the location where the alleged incident had occurred was canvassed, but because two years had elapsed between filing of the complaint and the alleged incident, no witnesses could be found. Lt. Bruno further explained that numerous calls had been made to the complainant and messages were left, but the calls were not returned to his office. He concluded that there was no new data.

Michael Whiteman acknowledged that additional requests for data in this matter would be made in writing to the Chief without prejudice to the Board's position or procedures and acknowledged Manuel Alguero's comment that the issue of procedures warrants further consideration.

Michael Whiteman commented that it is satisfactory for Lt. Bruno to express discomfort or inability to answer when giving a report, but reiterated that he would like to see the transcripts relating to Complaint 01-01.

Patricia Salkin asked if the Government Law Center should draft the request. The Board responded in the affirmative.

The issue of written reporting by OPS as addressed by the Corporation Counsel's memo was tabled for further discussion and review. Lt. Bruno was asked to proceed with his report.

Paul Weafer summarized Complaint 08-01, commenting that the Board had previously asked for further review of this case by OPS. Lt. Bruno reported that there was no new information; his office had checked into the court case, but the charges were dropped. He added that OPS canvassed the area again, but concluded that this case was "unfounded." Paul Weafer moved to accept the findings of OPS. Judith Mazza seconded. All approved.

Paul Weafer addressed Complaint 12-01, noting that a monitor was appointed by 7-2 vote of the Board. Mr. Weafer then asked Lt. Bruno whether OPS meets with a monitor when the statute has restricted discipline. Lt. Bruno responded affirmatively. Mr. Weafer followed up by asking what occurs if discipline cannot be meted out. Lt. Bruno responded that OPS investigates all complaints whether or not discipline can be imposed. He added also that the investigation could lead to criminal charges.

Paul Weafer then followed up on complaint 04-01 from the previous meeting. He asked Lt. Bruno if the Chief could consider mediation in this case. He also asked if mediation could be considered discipline under the Collective Bargaining Agreement (CBA). Lt. Bruno responded that mediation is not considered discipline and that a recommendation for mediation in this case must be submitted to the Chief. Patricia Salkin commented that the Government Law Center would include this in the Board's letter for transcripts for Complaint 01-01.

Paul Weafer asked Lt. Bruno if he was ready to report on Complaints 05-01 and 07-01. Lt. Bruno responded that they were ready to be presented at the meeting.

Lt. Bruno passed out OPS's written reports for new complaints to be reviewed.

Paul Weafer commented that since the Corporation Counsel is now suggesting that OPS's finding be reported to the Board in writing, he proposed that the written reports be available at the Government Law Center one week prior to the Board's regularly scheduled monthly meetings. Lt. Bruno responded that his office would make an effort to have the written reports complete prior to the meetings, whenever possible.

Herman Thomas opened the meeting for questions.

Judith Mazza asked how the Board is to conduct its review given the new procedure proposed by the Corporation Counsel. She then suggested that the Board table its review of new complaints because there has not been sufficient time for the members to review OPS's written report and notify complainants and monitors of the meeting.

Paul Weafer moved to table review of new complaints until the Board's September

meeting. Judith Mazza seconded the motion. All approved.

Morris Eson asked if OPS's written reports could be taken home and reviewed by Board members. Lt. Bruno responded that there is a concern of confidentiality if Board members maintain their own copies of reports for a long period of time.

Paul Weafer gave a summary of new complaints. He noted that there had been five complaints filed since the Board's previous meeting. He added that a monitor had been appointed in all five complaints. He also noted that the Board had not adopted procedures for its monitors and needed to do so.

Paul Weafer asked that consideration be given to the CPRB Operating Procedures with respect to the review of complaints and specifically, determination to appoint a monitor. Michael Whiteman added that the complaint review committee suggests that the changes be made to section two of the procedures. Mr. Whiteman explained that the current procedures provide for determination of a monitor to be made by the Board as a whole. He noted, however, that there are circumstances warranting a more prompt determination, rather than referring the decision to the entire Board. He then read Section II, subsection (B) of the CPRB Operating Procedures. (See attached). He commented that this section both respects the Board's determination in the process, but provides for an interim determination where warranted by the circumstances of a complaint.

Michael Whiteman moved to adopt the Operating Procedures with the proposed changes. Manuel Alguero seconded the motion.

Morris Eson expressed concern with § 42-343(B) of the law, specifically appointment of a monitor, and proposed that it should be amended. Michael Whiteman responded that it was a useful clarification, but not necessary for the adoption of the Board's operating procedures. He noted that the Board is charged with providing an annual report, which includes recommendations for change, and the Board can take up this issue in that report.

The Board then engaged in brief discourse about appointment of monitors and when a monitor should and should not be appointed pursuant to the law. Several Board members agreed that the Board should receive more training regarding what is considered to be a civil rights violation and use of excessive force for purposes of making the determination to appoint a monitor.

Michael Whiteman redirected the dialogue to adoption of the Board's Operating Procedures and moved again for adoption. Motion was seconded and all approved, except Morris Eson who abstained.

Judith Mazza gave the report of the Public Outreach Committee. She noted that each Board member had a packet of materials concerning the Board's outreach efforts,

including a copy of its brochure, web site and Fall Schedule, which includes outreach meetings. She explained that the brochure had been completed and is ready for printing. She moved to adopt the brochure for distribution to the public. Manuel Alguero seconded the motion. All approved. She then reported that the Web site was near completion, but still needed a copy of the Legislation for posting. She noted that the site is a work in progress, allowing for information to be added at a later date. She then moved to adopt the Web site. Paul Weafer seconded the motion. All approved. She noted that the Board's Fall meeting schedule included several meetings with local constituency groups. She added that she would make a list and ask that 2-3 members serve as representatives of the Board for those meetings. Finally, she identified the dates for the Board's ongoing training program. Patricia Salkin commented that the training topics were topics that had been forwarded to and approved by the Common Council. However, she added that the Government Law Center would like to make every effort to make the trainings relevant to the Board's work and if the Board would like to make suggestions about specific items that it would like to see covered during training, that it should contact the Government Law Center.

Discussion turned to the NACOLE Conference taking place in October of 2001. Herman Thomas commented that he would like to see that every Board member attend the conference, but understands that in the past the City has said that it would only sponsor one member. Patricia Salkin then asked that Assistant Corporation Counsel, Todd Burnham obtain an opinion from the City as to how many members the City is willing to send to the conference. Paul Weafer noted that Chairman Kenneth Cox had expressed interest in having at least two, but possibly three members of the Board attend the conference.

Prior to public comment, the Board discussed its third quarterly report. Patricia Salkin, directing the Board's attention to page four of the report, pointed out that this is the first report where the Board was required to report statistics of the complaints reviewed. Michael Whiteman noted an error in the language of Complaint 04-01. He explained that the finding as listed did not comport with the Board's action, explaining that the Board concurred with OPS's finding of "exonerated." Patricia Salkin agreed to make the change per Mr. Whiteman's suggestion.

Herman Thomas then opened the floor for public comment.

Louise Roback was recognized. She noted the Board's discussion of its review powers under the law. She urged the Board not to view the law as limiting its power and commented that the law does not preclude open dialogue. She added that the Board has the power, under the law, to make recommendations to the Mayor. She explained that the Police Department would be entering into contract negotiations shortly and that the time is ripe for addressing the use of subpoena power, having monitors present during the investigation and any discourse that would be worth having while the contract is pending.

Dan Salvin of the Center for Law and Justice was recognized. He noted that the Center had received many calls from members of the Albany community regarding the statement made by Officer's Shea and Nadorski at the sentencing of Tracy Grady. He added that he wished to read a statement to the Board from the Center. (See attached). He concluded by asking the Board to denounce the statements.

Herman Thomas then moved to adjourn the meeting. All approved and the meeting was adjourned at approximately 8:25pm.

Respectfully Submitted,

Michael Whiteman, Secretary