

City of Albany Citizen's Police Review Board

Minutes of Meeting 09/10/01
Albany Public Library
HBH Room

In Attendance: Manuel Alguero, Kenneth Cox, Morris Eson, Judith Mazza
Herman Thomas, Paul Weafer, Michael Whiteman

Absent: Marilyn Hammond, Eleanor Thompson

Chairman Kenneth Cox called the meeting to order at 7:08pm.

The agenda was revised as follows: 1) Media Advisory to be read, 2) old business, 3) review of complaints, 4) new business, 5) brochure, 6) summary of new complaints. Morris Eson moved to accept the revised agenda, which was seconded by Herman Thomas. All approved.

Chairman Kenneth Cox mentioned that both his and Dr. Manual Alguero's terms are about to expire, and suggested that Herman Thomas, the Board's Liaison to the Mayor's Office and Judith Mazza, the Board's Liaison to the Albany Common Council, ask that both he and Dr. Alguero be recommended for re-appointment next year and that the Government Law Center also be used as well. Chairman Cox also asked Herman Thomas to speak to the Mayor about getting a budget for members to attend the NACOLE Conference. Chairman Cox moved to accept these suggestions. The motion was seconded by Paul Weafer. All approved.

A Media Advisory issued by the Mayor was read by Michael Whiteman. (See attached). Manuel Alguero moved to incorporate the advisory into the record. The motion was seconded by Chairman Kenneth Cox. All approved.

The minutes of the August 20, 2001 meeting were read. Manuel Alguero moved for approval of the minutes. The motion was seconded by Judith Mazza. All approved.

Old Complaints. Paul Weafer read Complaint 01-01, which had been tabled on two previous occasions for further investigation by the Office of Professional Standards (OPS). Lt. Anthony Bruno explained that the individuals (witnesses) informed the Police Department that they did not know the complainant and that the complainant is currently in Albany County Jail and has had approximately 30 arrests. Paul Weafer made a motion to accept the findings of the Police Department. The motion was seconded by Judith Mazza. All approved.

Public Outreach. Judith Mazza announced that there is a revised schedule for trainings. She also mentioned that she had attended a public outreach meeting with the Council of Albany Neighborhood Associations (CANA) and that the meeting with the African-

American Clergy will be rescheduled. She mentioned that the new brochures were distributed during the CANA meeting and that the CPRB web site will be up and running shortly. Paul Weafer moved to accept Judith's report. The motion was seconded by Herman Thomas. All approved.

New Complaints. Paul Weafer mentioned that a monitor was appointed for Complaint 7-01. Last month, Lieutenant Bruno had provided a preliminary oral report, but since it wasn't in writing, it was one of the five or six complaints tabled at the previous meeting.

Complaint 7-01. Paul Weafer noted that this complaint involved an allegation of violation of civil rights. Lt. Bruno gave a summary of the complaint and a report of the investigation. It involved a police car or more than one, engaged in a pursuit from Exit 23 off the Thruway onto 787 North. The vehicle was stopped at the Clinton Avenue Exit. Complainant was searched. Police officer alleges complainant smelled of alcohol and that he detected the odor of marijuana. Complainant alleges improper personal search, improper touching of groin area. Vehicle was also searched, permission having been granted by an individual in the vehicle (not owner of car). It was also alleged that a State Police car was involved in the pursuit. The State Police were contacted and responded to the inquiry that the State Police were not involved. The officer contends that it was a reasonable stop. Complainant was issued a ticket for speeding and being uninsured. A Board monitor, Al Lawrence, was appointed.

Lieutenant Bruno clarified that this was not a pursuit. The complainant and two passengers in the vehicle allege pursuit. Radio tapes of the stop do not reveal pursuit and that permission for the search of the vehicle was granted by the owner of said vehicle. All of the witnesses have read the reports and transcripts. "Officer must have a specific and articulable reason for a pat down search." Officer feared for his safety. There was no bulge at the waistband of complainant, witnesses had on feeling that complainant was carrying a gun. There was effective consent to search the vehicle. Initially, one individual urged the other individual not to consent to the search of the vehicle. The Police Officer offered to have a canine unit brought to the scene. The trunk of the vehicle was opened, nothing was discovered.

Manuel Alguero asked if there was any way to investigate from one point to another point (start to stop of chase of vehicle). Lieutenant Bruno responded that the time of the stop from beginning to end was 9:34pm - 10:02pm.

Michael Whiteman sees two branches of the complaint, complainant and nature of citation issued (harassment). Lieutenant Bruno has no information in writing. The Lieutenant states that if a written request is made, he will try to locate the information.

Michael Whiteman asked if the search or the physical (pat down) touching routine? Lt. Bruno responded that it was routine and standard. Mr. Whiteman also asked if the touching seem to be inadvertent, forceful or continued? Lt. Bruno responded that the complainant alleged that there was touching, but that his Office had determined the

touching to be inadvertent. Paul Weafer asked how fast the vehicle was going? Lt. Bruno responded that the vehicle was doing 67 miles per hour in a 55 mile per hour zone.

Manuel Alguero asked the appointed monitor, Al Lawrence, to comment on the investigation. Mr. Lawrence suggested that the officer be questioned more thoroughly about the reason for the pat down search and about the detection of the odor of marijuana. He noted that the officer conducted only a cursory search of vehicle. He also commented that the officer on the scene asked that the trunk to the vehicle be opened and noted that it was opened, but the officer did not rifle through the suitcase in the trunk. Lieutenant Bruno responded that one can always ask more questions.

Paul Weafer asked if the individuals that were questioned were indignant? Lieutenant Bruno responded that he did not know because he was not personally involved in the interview.

Al Lawrence, the appointed monitor, stated that the witnesses thought that the search and pat down were not warranted and that the officer was rude to passengers.

Judith Mazza asked if more than one officer was present. Lieutenant Bruno responded yes, but the complainant singled out only one officer.

Manuel Alguero commented that the allegation by the officer of suspected drugs was not supported by the behavior. He then recommended that Mr. Lawrence's comments be noted in the record.

Paul Weafer moved to sustain the findings of the Police Department with a recommendation that the OPS speak to the officer. The motion was seconded by Manuel Alguero. All approved.

Complaint 13-01. Paul Weafer noted that a monitor was not appointed. Lt. Bruno gave a summary of the complaint and a report of the investigation. Complainant was behind a police officer at a red light. When the light turned green, the police officer waited a moment before proceeding through the light. The complainant sounded his horn because the police officer was not moving fast enough for him. The police officer proceeded to pull off to the right side of the road and let complainant pass. Shortly thereafter, the complainant was pulled over and ticketed for failure to signal, failure to stop allegation not sustained. Complainant believes ticket was issued out of retaliation.

Michael Whiteman asked how many tickets are issued for failure to signal, and whether the case was still pending. Lt. Bruno responded that he did not know the answer to either of the two questions.

Manuel Alguero commented that this case was about conduct of officer, perhaps a retaliatory issue.

Judith Mazza commented that this is a case of he said/she said and made motion to accept findings of police department, which was seconded by Michael Whiteman. All approved.

Complaint 9-01. Paul Weafer noted that this was an assault arrest based on complaint of another citizen, explaining that the friend of the complainant made a complaint about complainant. The complaint alleges that she was arrested after being told by the officer that she was not under arrest. Lt. Bruno gave a summary of the complaint and a report of the investigation. Complainant was put in handcuffs, complainant asked if this was an arrest, was informed that it was not. Realization set in to complainant at the police station. Complainant is alleged to have been intoxicated and belligerent.

Michael Whiteman asked for a definition of the crux of the complaint. Judith Mazza stated that the complainant was told that she was not being arrested, but was put in handcuffs, taken to the station and later arrested.

Lieutenant Bruno found nothing in report stating that complainant was informed that this was not an arrest.

Complaint tabled pending further discussion in executive session.

Complaint 10-01. Lt. Bruno gave a summary of the complaint and a report of the investigation. Complaint against the city of Albany which occurred two or three years ago. A police officer was going the wrong way down a one way street. A man was sitting on a step when an officer stopped to say hello. Complainant alleges harassment. A monitor was appointed to this case but was unable to attend the Board meeting due to emergency surgery.

Complaint 11-01. Lt. Bruno gave a summary of the complaint and a report of the investigation. Officer noticed crack cocaine and a weapon in the complainant's vehicle. The individual was arrested for possession of crack cocaine and possession of a weapon. Michael Whiteman asked about the nature of the complainant. He questioned whether this complaint is one for the Board. Judith Mazza commented that this case was going to trial. Lt. Bruno commented that the complainant was not guilty and the allegation was "unfounded." This was accepted by the Police Department. Judith moved to accept the Department's finding. Paul Weafer seconded the motion. All approved.

Complaint 5-01. Paul Weafer explained that the police said a car matching the description of the complainant's car committed a crime, but a description of the individuals did not match the individuals driving the vehicle. The driver was detained and upset about the traffic stop. The stop was about 6 minutes.

Lieutenant Bruno clarified that an occupant in another vehicle with a similar physical description of the vehicle and a partial license plate number in the description matched

that of the complainant's vehicle.

Paul Weafer asked Lt. Bruno if mediation has been pursued. Lt. Bruno responded that it had not. Mr. Weafer then asked if there was any follow up with the complainant and whether the Police Department would be interested in mediation? Lieutenant Bruno responded that Police Department would be okay with mediation.

Paul Weafer noted that the Board also spoke about training and suggested more training in the Police Department on this issue. Judith Mazza moved to accept the findings of the OPS with a recommendation for mediation and training. The motion was seconded by Paul Weafer. All approved.

Public Comment. Commissioner Nielsen was recognized and noted that the Mayor's statement speaks for itself. The Commissioner opined that the Mayor's statement reflects a belief that the Mayor has held both publically and privately. He stated that he believes that the Board is doing a splendid job. The Commissioner further opined that the Board is giving the Police a sense of security in the number of hours that the Board is putting in. He explained that the Board is part of a larger team; the Police Department, its administration, the rank-in-file officers and the union are all part of this and that privacy issues cannot be understated (referring to the memo issued by Corporation Counsel at the previous meeting). He commented that this requires immense training and a better perspective.

Commissioner Nielsen presented a hypothetical case:

A witness says the complainant is not truthful and complainant has a history of unsocial behavior. Naming the witness will endanger this witness if the name becomes public information.

The Commissioner commented that this process is in its infancy and it is to be looked back at for past practice. He noted that the issue of privacy for officers and complainants cannot be understated. He suggested being very careful to protect witness information because disclosure to the public could result in witnesses not coming forward and could impede an investigation. He noted that he supports the Mayor's statement and asks the Board to understand the immense responsibility that they have. He stated that the Board is making history and that this process is working; this is clear in the countless hours each member has spent. Commissioner Nielsen pointed to the crowd and stated that we are all in this together and we owe respect to those who go out on a limb.

Dr. Alice Green was recognized. Dr. Green commented that she had received the quarterly report and is very happy with it and commended the Government Law Center. She explained that the documented mistrust between the community and the Police has to do with secrecy and lack of information. She wanted to underscore what the Mayor said in his advisory. It's important to maintain an open forum. Here the Board has taken great precautions to protect the identity of the police officers, witnesses and

complainants. She felt that it is not the worst thing in the world to be identified, and understands the Commissioner. Dr. Green wanted to know whether the quarterly report can routinely be given to organizations who receive complaints. The Board responded yes.

Mrs. Moore was recognized and asked if the Board is required to notify the victim when this session is taking place. Paul Weafer responded yes. Mrs. Moore then asked why her son's case is being discussed behind closed doors. Paul Weafer responded that the Government Law Center received a message late that afternoon (9-10-01) notifying the Board that the appointed monitor in the case was unable to attend the meeting due to emergency dental surgery. Mr. Moore concluded by stating that it is important that the case be reviewed in public.

Louise Roback was recognized and stated that she endorses the comments of Dr. Alice Green. Ms. Roback applauded the Board for finding a way to conduct its review of complaints in a public forum. She suggested that the Board follow up with the Police Department on the racial profiling policy.

Manuel Alguero commented that the Board passed a resolution about bias-based policing.

Public Comment - a member of the audience asked why Chairman Cox raised the issue of re-appointment. Chairman Cox responded that there needs to be continuity on the Board and that this issue needs to be addressed prior to the expiration of both his and Dr. Alguero's terms.

Paul Weafer commented on the conference in Denver. He explained that the Board would like to send more than one person to the NACOLE Conference. He noted that there is a session on FOIL at the Denver Conference which he believes is a very important one. He suggested speaking to the Mayor or the Common Council to allow for more than one member to attend. He asked the Commissioner to take up this issue.

Michael Whiteman commented that he is glad that Commissioner Nielsen stated his position publically. He stated that the Board deliberates to the maximum extent possible in public and that every board member is mindful of sensitivity. Mr. Whiteman then thanked the Commissioner for making his statement on the record.

Paul Weafer moved to go into executive session. The motion was seconded by Manuel Alguero.

Michael Whiteman moved to come out of Executive Session. The motion was seconded by Herman Thomas.

It was noted that the next meeting of the Board is scheduled for October 1, 2001.

The meeting was adjourned at 9:00pm.

Respectfully Submitted,

Michael Whiteman, Secretary