

Albany Citizens' Police Review Board
Meeting on July 16, 2001
Albany Public Library
7:00pm

Minutes

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

- I. The meeting was called to order at 7:06 pm by Chairman Kenneth Cox.
- II. Chairman Cox reviewed the proposed agenda and all approved.
- III. Manuel Alguero moved to accept the minutes of the meetings on May and June 4, 2001. Herman Thomas seconded. All approved.
- IV. Chairman Cox recognized the newly appointed Police Chief, Robert Wolfgang, and congratulated him on his appointment. Chief Wolfgang thanked the Board for allowing him to be recognized and for the opportunity to introduce members of his command staff that were present at the meeting. He stated that he hopes to continue to achieve success and that he looks forward to working with the CPRB. Chief Wolfgang then introduced the following members of his staff, each of whom said a few words about their responsibilities with the Albany Police Department: Deputy Chief Jim Turley; Commander Chris D'Allsandro, Commander Leonard Crouch, Commander Steve Sella and Commander Fred Brittany. The Chief reported that these are a wonderful group of enthusiastic and dedicated individuals who are committed to an open Department.
- V. Review of Complaints. The Board then began to review complaints. Chairman Cox called upon Lt. Anthony Bruno from the Office of Professional Standards (OPS) to review the complaints, and confirmed that there were six complaints to review at the meeting. Michael Whiteman asked Lt. Bruno whether in his opinion any part of the review would require a disclosure of the identity of a police officer, an informant or sensitive investigative techniques. Lt. Bruno responded no. Mr. Whiteman responded that this was a good thing since the Board desired to keep the discussion as open to the public as possible. Paul Weafer asked Lt. Bruno to let the Board know whether a problem could arise as they begin to review the complaints.

Complaint #01-01. This complaint which was received on 5/25/01, alleged use excessive force by two officers on 3/12/99. Lt. Bruno reported that the OPS closed this case as "no finding." He explained that the delay in filing made it hard to find witnesses and that witnesses identified by the complainant could not be found. Furthermore, the complainant could not supply other needed information.

Mr. Weafer asked whether this complaint was left from the prior Board. Lt. Bruno said no. Mr. Weafer asked about the medical records since the complainant alleged that he had reconstructive surgery. Mr. Whiteman asked whether the medical records supported the complaint. Lt. Bruno said that the medical records were dated days after the complainant was released from police custody. Mr. Weafer asked if the complainant went to Albany Medical Center. Lt. Bruno said yes. Mr. Weafer asked whether Lt. Bruno had spoken with the detective who investigated the complaint. Lt. Bruno said yes. Mr. Weafer asked why the detective did not believe the allegations. Lt. Bruno responded that there were a lot of inconsistencies. The complainant recalled the arrest and hospital stay vividly, but could not recall anything in-between and could not recall the names of any witnesses. Mr. Weafer asked whether the complainant was asked why he waited so long to file the complaint. Lt. Bruno said he was asked, but he could not recall the response. Judith Mazza asked whether there was more than one officer involved. Lt. Bruno said there were two. Ms. Mazza asked what the officers had to say. Lt. Bruno said they denied use of force and that there was an injury. Manuel Alguero asked whether the complainant was advised that witnesses were no longer available. Lt. Bruno said yes, on many occasions. Dr. Alguero asked whether the complainant was notified of the “no finding.” Lt. Bruno said yes. Ms. Mazza asked whether he had complained before. Lt. Bruno said no. Mr. Weafer asked whether he gave a statement to Albany Medical Center. Lt. Bruno said yes.

A discussion then ensued about the Board reviewing complaints that are this old. Herman Thomas suggested that the Board should not be reviewing complaints of incidents that occurred prior to the establishment of the Board. Morris Eson disagreed, arguing that complaints should all be considered. Mr. Weafer reminded the Board that the local law creating the CPRB says that if the incident is more than six months old, then it takes a vote of five members of the Board to consider the complaint.

Ms. Mazza noted that the records indicate that the complainant was injured somehow, but that there was a long time lag from the time of release to the time he went to the hospital. Lt. Bruno indicated that it was several hours. Dr. Alguero suggested that perhaps there was not sufficient evidence at this time for the CPRB to make a finding, adding that it would be helpful if the Board could have access to the officer’s statements. Manuel Alguero moved to table further review of the complaint until additional evidence could be collected. Kenneth Cox seconded the motion.

Mr. Whiteman asked whether there are detailed transcripts of the interviews. Lt. Bruno said yes. Mr. Whiteman asked whether further investigation by the OPS could yield anything else. Lt. Bruno said no. Mr. Whiteman noted that the Board has been presented with a conclusion that not everyone is comfortable with yet, and that perhaps there could be greater comfort if the Board could review the transcripts. Mr. Whiteman moved to amend Dr. Alguero’s motion to ask the OPS

to provide more information to the Board. Dr. Alguero accepted the friendly amendment. Rev. Cox accepted it as well. All approved of the amended motion.

Complaint #2-01. This complaint, received on 5/22/01, involved the conduct of two officers on Lark Street. The complaint alleges that the complainant criticized a Department member and that the Department member in turn called the complainant a vulgar name. The complaint alleges that an officer pulled him down a flight of stairs and arrested him, and that more name calling and foul language ensued. The complainant also alleged that the handcuffs were too tight and that he asked for them to be loosened. Lt. Bruno reported that the OPS finding was "sustained in part" and "not sustained in part." Specifically, the allegation that the officer called the complainant a "faggot" was sustained. The rest of the allegations were not.

Mr. Weafer noted that the Board did not appoint a monitor in this case as it was viewed as a case of insensitivity and rudeness. Mr. Whiteman asked whether there were non-police witnesses. Lt. Bruno said yes. Mr. Whiteman asked whether they were interviewed. Lt. Bruno said yes, that two people corroborated that the officer used the word "faggot." Mr. Weafer asked whether the witnesses also concurred that the complainant called the Department employee a "cunt." Lt. Bruno said yes. Dr. Alguero asked for clarification of what was not sustained. Lt. Bruno said the allegations that the officer used the words "moron" and "If you called me a cunt I would knock your fucking teeth out." Mr. Whiteman asked what the complainant was arrested for. Lt. Bruno responded that it was for obstruction of justice and resisting arrest. Dr. Alguero asked whether the complainant was notified of the finding. Lt. Bruno responded yes. Dr. Alguero asked whether there was any response from the complainant. Lt. Bruno said the complainant did not express any level of satisfaction; the finding was simply explained to him. Mr. Eson asked what it means to have a complaint sustained. Lt. Bruno said that gets into Civil Rights Law sec. 50-a, and that he cannot address discipline with the Board. Mr. Weafer said he would like to see sensitivity training. Lt. Bruno said that when a problem is identified the Department takes appropriate steps. Ms. Thompson remarked that the officers are professionals and perhaps more training is needed to deal with the public, even when the individual citizens may not always use proper language. Dr. Alguero said he would like to have feedback as a result of the investigation, and he would like to know whether there is a pattern. Lt. Bruno said that an early warning system is part of the legislation creating the Board and the Police Department and the Government Law Center are working on it. Mr. Weafer agreed with Ms. Thompson and Dr. Alguero, but he pointed out that provocation by the complainant should be considered. Mr. Whiteman said this is a case that simply escalated out of control. He said he was perplexed as to the basis for arrest, and asked whether the complainant was convicted. Lt. Bruno said the case was still pending. Ms. Mazza moved to accept the finding of the Police Department. It was seconded by Mr. Weafer. All approved.

Complaint #3-01. This complaint was received on May 23, 2001 and concerned an alleged event on May 17, 2001. Lt. Bruno reported that the complainant stated that he engaged in conversations with several police officers in the street outside his residence and that the officers made fun of him. Then the officers blocked his car and he was ticketed for being in a "no stopping" area. Lt. Bruno reported that the case has been closed as "sustained." Witnesses confirmed the alleged events. Dr. Alguero moved to accept the finding of the Police Department. Mr. Weafer seconded. Ms. Mazza said she was concerned that the Board would not know what happens after a finding of misconduct, and she objects to not knowing what the Department does after a finding. Ms. Thompson and Mr. Eson agreed. Mr. Eson said that the Board needs to know what happened, and suggested that perhaps the law should be rewritten to allow this. Mr. Weafer suggested that the Board need to know a general idea of what types of discipline result from certain actions. Lt. Bruno said that each situation is handled on a case by case basis and that a lot of factors are considered in that regard. Mr. Weafer asked Lt. Bruno to convey the Board's concerns to the Commissioner. A vote on the motion was taken and all approved.

Complaint #4-01. A monitor was appointed in this matter on the basis of an alleged use of excessive force. Lt. Bruno reported that the complaint was received on May 21, 2001 for an alleged incident that occurred on March 14, 2001 on Morton Avenue. The officers involved were attempting to serve a no knock search warrant when they ordered the complainant, who had just descended the stairs from a second floor apartment, to the floor. Complainant alleged that she was physically forced to the floor, injured and frightened. The Office of Professional Standards issued a finding of "exonerated." Lt. Bruno reported that it was not proven that the complainant was placed on the ground or that she was kned in the back as alleged. He reported that the medical records failed to show an objective injury. Mr. Whiteman asked why the medical records reviewed were from Whitney Young when the complainant says she went to Albany Medical Center. Detective Rissberger said she went to Albany Med one day and to Whitney Young two or three days later. Mr. Weafer asked why she was seen at Albany Med. Det. Rissberger said she had x-rays at Albany Med and that no injuries appeared on the x-rays. Ms. Thompson asked whether she complained of pain. Det. Rissberger said yes. Mr. Whiteman asked whether the police officers thought she was involved with the activities that were the subject of the search warrant. Det. Rissberger explained that the officers were in stack...14 in a line...and that they had no idea who she was. Mr. Weafer asked whether she identified that she was a tenant and if so, could the officers have gotten her out the building. Det. Rissberger said time is critical in a no knock arrest warrant situation. Mr. Eson asked whether she was taken to the police station. Det. Rissberger said she was taken to Albany Med., she was not arrested. The records of the EMS crew that took her to Albany Med were reviewed as well. Mr. Whiteman remarked that these were exigent circumstances - a no knock warrant, and this simply looked like a case of a person being in the wrong place at the wrong time. He suggested that perhaps

mediation could be used to explain what was going on here. Rev. Cox asked the monitor that was appointed to address the Board. The Board had received the written report of the monitor that day. Mr. Lenihan said that hindsight is crystal clear. In his opinion there was no fault here. Mr. Eson said he felt comfortable that the police did what they were supposed to. He asked whether the complainant now knows why things happened. Det. Rissberger said yes. Mr. Weafer asked whether she seemed satisfied so that mediation is not necessary. Det. Rissberger said that she seemed satisfied but that she did not know what the complainant might want. Mr. Weafer moved to accept the finding of exoneration. Ms. Thompson seconded the motion. All approved and suggested that some type of conciliation/mediation should occur.

Complaint #6-01. Lt. Bruno reported that this case involved off-duty conduct of an officer alleged to have occurred on May 17, 2001. The complaint was filed on May 29, 2001. The complainant is the former spouse of the officer involved. Lt. Bruno reported that the case was closed as "unfounded." The officer provided proof that information was obtained in a forthright manner and he did not use his position as an officer to get information. Mr. Weafer responded that this seemed like a domestic quarrel. Lt. Bruno responded yes. Mr. Weafer moved to accept the finding of the Police Department. Ms. Hammond seconded. All approved.

Complaint #8-01. The complaint was received on June 4, 2001 at the CPRB meeting and involved an alleged event on May 24, 2001 on Livingston Avenue. The complaint did not allege excessive force or use of derogatory language. Lt. Bruno reported that the case was closed as "unfounded." He reported that the complainant's girlfriend called 911. The complainant was charged with endangering the welfare of a minor. It was alleged he pushed his girlfriend, who was holding their five year old daughter. The girlfriend later said the shoving did not occur and she could not later explain why she filed a complaint. Mr. Whiteman said that the complaint alleged that the daughter and the girlfriend were close in size. Mr. Weafer said he thought the thrust of the complaint was that the complainant was arrested rashly. Dr. Alguero asked whether the issue was whether the arrest was warranted. Mr. Whiteman said that when there is a 911 call and the office thought he saw pushing, the officer thought there was a basis for arrest and the Board should not second guess this. Dr. Alguero said more information is needed. He would like to know more about interviews with the complainant and the girlfriend. Ms. Mazza cautioned the Board about 911 calls. It is difficult to make calls about whether or not an officer is too aggressive when the situation involves the welfare of a child. Domestic disputes are very difficult, and she is comfortable with the Department's findings. A discussion then ensued as to whether the Board would hear comments from the complainant who was present at the meeting. The law is silent on this subject and the Board said if time permitted they might hear from him in Executive Session at the end of the meeting. Mr. Whiteman moved to table the review of the complaint. Chairman Cox seconded. All approved.

Mr. Weafer then discussed a new complaint that had been received by the Board. The complaint is about an incident that occurred more than six months ago, and so the Board would have to vote on whether or not to review it. He reported that the complaint was lodged by a landlord against officers who wanted to enter his house to obtain the personal belongings of a former tenant. Mr. Weafer reported that it is his understanding that under the terms of the collective bargaining agreement between the City and the Police Department that no discipline can be imposed for incidents that occurred more than six months ago. Mr. Whiteman said the Board should first decide whether to entertain the complaint that is more than six months old. The second issue would be, if so, then whether a monitor should be appointed. He said there is a lot that could be accomplished in the process even where no discipline is possible. He said he is troubled both by the age of the case and also why an officer would assist a tenant in getting possessions in the first place. Ms. Mazza said that a lot of good could come out of the investigation of the complaint. Mr. Eson said that since the Police Department has an obligation to review the complaint, they should report back to the Board. Ms. Mazza moved to accept the complaint. Ms. Thompson seconded. All approved. Dr. Alguero moved to appoint a monitor, Mr. Whiteman seconded. Seven members approved and two voted no (Mr. Eson and Mr. Weafer).

In the interests of time, Chairman Cox announced that new business and the complaint review process guidelines would be tabled until the next meeting. He moved into the public comment period and recognized Louise Roback. Ms. Roback commended the Board for discovering a way to allow the public to hear the conversation without violating 50-a. She suggested that the Board consider getting information from the Police Department as to whether a finding is a violation of police procedures, since this could be helpful. Chairman Cox said the Board would discuss that. Chairman Cox then recognized Chris Gardiner, Counsel to Council 82. He said that if the complainants were notified of the meeting, the officers should have been as well. Chairman Cox responded that he was under the belief that Commander Breen has caused such notice to be given, and that he would look into it.

At 8:53 pm Mr. Eson moved that the Board go into Executive Session. Ms. Mazza seconded. All approved. At 9:00 pm the Board came out of Executive Session and reported that they had spoken briefly with a complainant. The meeting of the CPRB was then adjourned at 9:00 pm.

Respectfully Submitted,

Michael Whiteman
Secretary