

City of Albany
Citizens' Police Review Board Meeting
GWU the Center
274 Washington Avenue, Teen Center Community Room
January 8, 2015
6:00 p.m. - 8:00 p.m.

MINUTES

Present: Mickey Bradley, Maritza Martinez, David Rozen, Eugene Sarfoh, Edward Smart, and Akosua Yeboah

Absent: Marilyn Hammond

I. Call to Order and Roll Call

Chairman Edward Smart called the meeting to order at 6:05 p.m.

Chairman Smart welcomed those in attendance and pointed out our distinguished guests of Public Safety Committee Chair and Common Councilperson Leah Golby, additionally Raymond Brescia of the Government Law Center.

II. Approval of the Agenda

Akosua Yeboah moved to approve the agenda. David Rozen seconded the motion. The motion carried unanimously.

III. New Business

A. New Complaints

1. New Complaints Received since the November 20, 2014 Meeting

Chairman Edward Smart reported that the Board received three (3) new complaints since its November 20, 2014 meeting.

Only new complaints that were not assigned a monitor were read at the meeting.

Secretary Akosua Yeboah read the new complaints.

The three (3) new complaints are listed as follows:

CPRB No 38-14/ OPS No. CC2014-091

According to the complainant, on June 22, 2014, a group of juveniles harassed and threw things at the complainant and his 11 year old dog while they were at the park. The juveniles also kicked the dog which caused the dog to run away. The complainant alleges that the officers who arrived on the scene laughed and joked with the juveniles, failed to assist him in pressing charges against the juveniles, and failed to assist him with his injuries. The complainant further alleges that the officer told him that what the juveniles did was not a crime. According to the complainant, after the incident, he made several calls to the police department to find out why a report was not filed. The complainant alleges that he was told by an officer that police reports are not filed for general incidents. The complainant further alleges that his request to speak to a supervisor was ignored.

A monitor **was not** appointed to investigate this complaint.

Ms. Yeboah stated that it is her understanding that the complainant in this case may be of diminished capacity and because of that there should be a monitor.

David Rozen stated that when he was initially called about a monitor being assigned he was in favor of one being assigned and is still of that opinion.

Akosua Yeboah moved to have a monitor assigned to **CPRB No. 38-14/CC2014-091**. David Rozen seconded the motion. The motion carried unanimously.

CPRB No 39-14/ OPS No. CC2014-093

According to the complainant, officers stopped him for not using his blinker. One of the officers allegedly said that he smelled marijuana. When the complainant refused to get out of his car, the male officer allegedly broke the car window and pulled the complainant out. As the officer pulled the complainant out, two other male officers allegedly started punching the complainant in the face while screaming "Stop resisting." The complainant claims that he was thrown to the ground, tazed twice, and kned and kicked in the back. The complainant alleges that he was in jail for four days, posted \$20,000 in bail, and \$3,500 of his money was taken from him and no one can find it.

A monitor **was** appointed to investigate this complaint.

CPRB No 1-15/ OPS No. CC2015-003

According to the complainant, on October 11, 2014, the police arrived at an address and arrested two individuals. As the officers were leading the two individuals out of the front door, the complainant approached them and asked why they were arresting one of the individuals. One of the officers allegedly pushed the complainant causing her to fall backward and strike her lower back on the doorstep and her head on the porch. The complainant sustained a concussion from the officer's actions.

A monitor **was** appointed to investigate this complaint.

2. Complaint(s) for Board Review

CPRB No. 36-13/OPS No. CC2013-096 (Presented by M. Bradley)

Mickey Bradley stated that at around 8:30 a.m., on July 22, 2013, APD executed a search warrant at the home of the complainant who was at work at the time but her thirteen (13) year old son was home sleeping at the time. It is alleged that officers gained entry into the second floor apartment by breaking the locks on the doors. The complainant's son was directed to place his hands on his head and to take three (3) steps backward out of the home. It is alleged that he was grabbed under his arms and placed in handcuffs. The officers were calling her son by his cousin's name, and it is alleged that he told the officers his name and age several times. It is alleged that neighbors told the officers his age and requested that his mother be contacted; despite this he was not asked for identification nor was asked about where a parent or guardian was. It is alleged that he was held outside in pajama pants with no shirt or shoes and moved from porch to porch. The complainant alleged that at one point he was asked if he wanted the cuffs removed, but when he did not answer quickly they were kept on. The complainant alleges that the officer questioned her son about the presence of firearms in the apartment. At 10:15 a.m. the complainant received a call from a neighbor at work saying that her son was in handcuffs. After speaking to an officer who told her that he would release her son to her custody the officer picked her up and drove her home as a courtesy. The complainant arrived at her residence at 10:30 a.m. and her son was still in handcuffs; at that time the complainant was asked questions about her boyfriend, her boyfriend's father and her nephew who were all targets of the investigation. The complainant was told she was "clear" and took both her and her son's information. An officer offered to drive her back to work but the complainant declined as she was to shaken by the incident. The complainant alleged that the officer stated "Sorry that this happened to your son, he seems like a good kid but your relatives are involved with a lot of drugs and guns." The complainant called the police back to her residence later in the day because her son had red handcuff marks on his wrists and arms. A detective was sent to write a report and to take pictures; the son declined medical treatment at that time. The complainant learned that a local news program had taped and aired a clip of her son in handcuffs following the incident. The complainant learned that in discussions with her nephew the officers referred to her son as a gang member and a drug mule. The complainant further alleges that during the search of her residence the officers broke a box of Christmas ornaments that her children had made her. The complainant's statement is corroborated by a neighbor and the complainant's son.

Mr. Bradley asked if the complainant was present, and it was noted that the complainant was present.

Mr. Bradley stated that a monitor was assigned to this case. Monitor George Kleinmeier was present.

The complainant stated that this situation was devastating to her and her child, she feels that her son was disrespected by the officers involved who are supposed to protect and not hurt him. The complainant stated that her son is good and has not been in trouble with the law and then this incident happened and he was upset by it. The complainant stated that she lost her job, could not eat, could not sleep and was forced to put her whole life back together.

Mr. Bradley thanked the complainant for being there and sharing her thoughts.

Monitor George Kleinmeier stated that Mr. Bradley covered most of his report, that this was part of a raid on multiple locations at the same time, and since this incident the SOP has changed where if a juvenile is apprehended there will be a juvenile card filled out which will in part show who specifically had custody of the juvenile. Mr. Kleinmeier stated that this change in policy is a good change that came out of this incident.

Mr. Bradley stated that there had been a robbery earlier at the home of a deceased known drug dealer, and during that robbery a large quantity of money drugs and firearms were stolen. Mr. Bradley stated that according to the OPS investigation the stolen firearms included two (2) handguns, a thirty eight (38) revolver, an unknown caliber semi-automatic, a kilo of cocaine, two (2) pounds of marijuana, one (1) pound of mushrooms, five (5) assault rifles, including AR-15's and SK style rifles. Acting upon this information the APD had utilized a warrant in searching the downstairs apartment the day before the incident in question. According to the OPS report, the search of the downstairs apartment yielded one (1) assault rifle, a large quantity of cocaine, and some jewelry. The downstairs neighbors referred to their upstairs neighbors though not actually referring to the complainant and her son as being involved in the robbery and two (2) other possible locations, which is why the police conducted three (3) simultaneous raids that morning. Mr. Bradley stated that the search was approved for anytime as the guns drugs and money could be moved, and no notice was to be given based on the potential presence of guns and suspects' potential to use them. Mr. Bradley stated that much of what was alleged is within the SOP for incidents of this nature. In particular, during such a raid police are to secure the scene quickly which means placing those present in handcuffs, asking questions about the premises to be searched (even of minors not with a parent or guardian), breaking locks to gain entry, and rifling through personal belongings resulting in a mess that gets left behind. It is also customary to not allow others to interact with or give items to an individual who is in police custody. Mr. Bradley stated that these are all unfortunate consequences of police search and it is particularly upsetting to innocent civilians, but these measures are important for the safety of both the police and everyone nearby when these searches are necessary for the enforcement of the law. Mr.

Bradley continues, more concerning is the amount of time the complainant's son was in handcuffs. While the estimates vary, the conservative timeline is that the complainant's son was handcuffed for two (2) hours. According to the OPS investigation when the complainant's son was asked if the cuffs were too tight he said no, and the marks on his wrist were consistent with the proper use of handcuffs. Mr. Bradley stated that a minor who is being cooperative to be handcuffed for at least two (2) hours is excessive in his opinion. Mr. Bradley stated that he is concerned that once the scene was secured that no one stopped to verify the minor's age or attempted to contact his mother, and because of the amount of officers on the scene it is not known who, specifically, had custody of the complainant's son, and OPS could not interview the officers in question here. Mr. Bradley stated that if any drugs or weapons were found in this search they would have undergone a more rigorous chain of custody than this child did.

Mr. Bradley stated that there is some good news - thanks to complaints like this one the APD adopted a new policy regarding juveniles in custody. This new policy enacted in April of 2014 is designed to avoid situations like these. Mr. Bradley read the new policy. "The following guideline shall be followed by personnel of this department when conducting field interviews involving a juvenile. Field Interviews: It is the policy of APD to utilize field interview contacts for the purpose of gathering relevant information concerning a possible or actual criminal activity for use in follow-up criminal investigations. Officers are permitted to make temporary stops of adults, juveniles and vehicles for the purposes of conducting an investigative interview and may detain a person if the officer has reasonable suspicions of any crime. An individual adult or juvenile stopped may be detained for a reasonable period of time. Officers, however, should detain a person only for the length of time necessary to obtain identification or for an accounting of the person's presence or conduct. The person should be released as soon as the interview is completed unless probable cause to arrest develops. Therefore, if an officer takes official police action involving a juvenile and the juvenile is not taken into custody a juvenile contact card must be completed. Whenever possible the juvenile should be transported home and turned over to a responsible person. If the juvenile is not turned over to a responsible person all attempts shall be made to contact the parent or guardian must be completed via telephone. Whenever a juvenile is turned over to another person, officers must complete a juvenile 'TOT' (Turned Over To) receipt and have the person taking custody of the juvenile sign the receipt."

Mr. Bradley showed a juvenile contact card and explained that it contains spaces for information about the officer, information about the child including age, and it requires the signature of a supervisor overseeing the transfer of the person. Mr. Bradley stated that this card ensures that proper custody procedures are followed and that proper steps are followed to identify the juvenile's parents. Mr. Bradley stated that with this new policy in place it is ensured that what occurred in this case will not happen again.

Mr. Bradley stated he commends Chief Krokoff and the APD for creating this new policy which should ensure that this type of incident won't happen again. Mr. Bradley stated however, for this case this policy was not in place so the lack of chain of custody presented and the failure to contact his mother was not in violation of the Standard Operating Procedures (SOP).

Mr. Bradley stated that for the first allegation of call handling the OPS recommendation is *exonerated* which is where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that her apartment was one (1) of three (3) houses that were part of a raid by the APD; she alleged that officers broke the locks on three (3) doors to enter her residence. According to the OPS review, the officers were allowed by law under the authority of a signed search warrant issued by Judge Carter to search the residence. The officers were directed to execute the warrant at any time of the day or night and were allowed to enter the premises without giving notice. The warrant was authorized following an investigation into weapons and drugs. The warrant authorized search for weapons and drugs, thus the reason for the officers to thoroughly search the apartment which could have, and more than likely would have, resulted in the household being disheveled upon completion of the search.

Mickey Bradley moved to concur with the OPS finding of *exonerated* for the call handling allegation. David Rozen seconded the motion. The motion carried unanimously.

Mr. Bradley stated that for the first allegation of use of force the OPS recommendation is *exonerated* which is where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that her son was home alone sleeping and woke up from the noise; he was instructed by officer to put his hands on his head and to take three (3) steps backwards out of the house. The complainant alleges that her son was confused and afraid because he was being directed by two (2) different officers. It was further alleged that he was grabbed under his arms and placed in handcuffs. According to the OPS review, it is protocol that whenever a search warrant is executed to secure all parties located inside the building. The parties are to be secured in handcuffs and removed from the general area until the area is searched. As indicated by the detectives as per training and protocol only one (1) person is to give commands to a party on how that person is to move and or walk to the officers involved. Once the complainant's son was close enough to the detectives to where they could safely take him into custody they did so. Until such person is handcuffed that person can pose a danger to officers in that it is unknown if that person may have a weapon secured on their person. The detectives followed proper protocol in taking the complainants son into custody and removing him from the area. The force that was used was the amount necessary to gain compliance, and was documented as per policy; there is no indication that there was any excessive force used upon the complainant's son. The red marks

depicted in the photographs are consistent with having been placed in handcuffs. As indicated by detectives they do not like to handcuff anyone under the age of fourteen (14), however in looking at the complainant's son at the time of handcuffing it was not readily apparent to the detectives of his age.

Akosua Yeboah stated that she has an issue with the age of the child in question, she stated that were they not aware of his age or who lived in the building.

Mr. Bradley stated that in his opinion the child looked older than his age at the time, and it is stated that it written that the detectives do not like to handcuff individuals under the age of fourteen (14) but it is not policy not to do that.

Mr. Bradley stated that his question is are the officers only operating on what they observe; here the child was stating his age and there was no real attempt to verify his age. In the end because handcuffing someone under 14 is not a violation of policy it did not impact his decision.

Chairman Smart stated that he believed the next two allegations are something that the Board should address, not because there has been new policy but because he takes issue with the child stating his age and then being kept in handcuffs regardless of the child's answer when asked about removing the cuffs.

Mickey Bradley moved to concur with the OPS finding of *exonerated* on for the use of force allegation. David Rozen seconded the motion. The motion carried unanimously.

Chairman Smart stated that this may be a good candidate for mediation.

Mr. Bradley stated that unfortunately due to the limited chain of custody we do not know which officers were specifically involved.

Mr. Bradley stated that for the allegation of call handling the OPS recommendation is *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that her son on several occasions advised the officers of his name and date of birth. The complainant's son was not placed under arrest or read his rights. The complainant further alleged that her son was questioned about an abandoned building and firearms without her being present. According to the OPS review, it is unknown who allegedly questioned the complainant's son as there were numerous officers and detectives on the scene that day. The detectives that reported using physical force stated that they did not question him at that time. If the complainants son had been questioned the officers would have been within their authority to do so without the complainant being present. Her son was not the target of the investigation therefore he was not charged with any crimes and would not have been read his Miranda Warning. If the questions were posed upon the son with regard to the

abandoned building and weapons it would have been due to the exigent circumstances due to the officers and detectives having a warrant on the building and attempting to gain intelligence for officer safety purposes prior to entering. Mr. Bradley stated that he concurs with the finding because questioning that was done was within policy and was appropriate for the situation that was occurring. Mr. Bradley stated that the portion regarding name and date of birth bothered him because officers did not try to verify the age and a parent in the moment, but again that was not a violation of policy at the time.

Chairman Smart stated that he is concerned that the policemen were told on a number of occasions about this child's age by multiple people, it is his opinion that this child was not treated appropriately in this situation. Chairman Smart believes that training should be touched on regardless of the policy change. Chairman Smart stated that as a Board we are to try and bring the police and the community together, and he believes someone with the APD should sit down with this family and personally state that they could have handled it better and have changed policy and made adjustments. Chairman Smart stated that this family should be held with great esteem because they have helped us change the police department for the better, they are not here simply griping they are here so that they can make Albany a better place to live.

Chairman Smart asked if there were any damages to the property.

The complainant stated yes, she had Christmas ornaments broken; her deceased grandmother's plates were broken as well.

Chairman Smart stated that those are the sort of things the city should know about.

Ms. Yeboah stated that she understands Mr. Bradley's point that these officers did not violate any policy, but at some point the officers decided to change their practice with respect to this child. Ms. Yeboah stated that the policy is policy but there should be consistency in the practices as well and she wanted to know the reason they changed the practice.

Chairman Smart asked Mr. Bradley if the Board could ask or request that someone from APD would sit down with this family, and to see if OPS can do training on how to handle juveniles, not just a contact card but how to handle the individual.

David Rozen stated that from his understanding there was an overarching situation where there was risk to officers, the public, and this family because there were large quantities of drugs, money and weapons on the street. Mr. Rozen stated that while he feels incredibly sad for the complainant's son and doesn't wish that scenario on anyone he thinks that the officers at the time followed the proper procedure of securing the situation and reducing the risk to the city's residence and the child. Mr. Rozen believes that he was in handcuffs to long but the officers at the time acted appropriately and the department

learned from this situation and acted appropriately. Mr. Rozen stated that his mother should have been contacted, but as result of this bad situation there is good coming out of it. Mr. Rozen stated that based on the situation as the Board has to look at it and he would agree with the finding of not sustained.

Mr. Bradley stated that he thinks Chairman Smart's recommendation to the Board of adding a separate recommendation and not doing it as part of the findings.

Mickey Bradley moved to concur with the OPS finding of *not sustained* for the call handling allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Mr. Bradley stated that for the final allegation of call handling, the OPS recommendation is *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that her son was detained in handcuffs for a significant amount of time. The complainant's neighbor stated that the son was handcuffed for the duration of the search which was three (3) hours. The complainant alleged that her house was searched at 8:30 am and when she arrived on the scene at 10:30 am her son was still handcuffed. According to the OPS review, the detective lieutenant stated they arrived on the scene between 8:30 am and 8:40 am and that the complainant's son was released to her custody around 10:45 am. When the lieutenant interviewed the complainant and her son he stated that he did not tell any officer on scene that is handcuffs were too tight. The lieutenant offered EMS and it was declined. Due to the nature of this incident in which detectives had search warrants for several locations, numerous personnel were at the scene which included the emergency services team, detectives and patrol officer, it is unknown who exactly took custody of the complainant's son once he was handcuffed, as the matter was not documented and therefore it is unknown the exact time frame the son was handcuffed as there were varying times reported. Mr. Bradley stated that he doesn't concur with the OPS finding because while it is true that the time frame is unconfirmed the minimum estimate is about two (2) hours which seems excessive to him.

Mickey Bradley moved to disagree with the OPS finding and to find *sustained* for the call handling allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Chairman Edward Smart moved to send a letter to Chief Krokoff in regards to the third allegation in this complaint requesting that someone within the APD meet with this family and explain to them the changes in policy and assure this family that they have made changes in the department. Akosua Yeboah seconded the motion. The motion carried unanimously.

Chairman Edward Smart thanked the complainant for attending the meeting and for coming out in the bad weather.

Maritza Martinez stated that she wanted to say that she was sorry to hear about the complainant's loss of the ornaments, other items, and job.

CPRB No. 15-14/OPS No. CC2014-041 (Presented by D. Rozen)

CPRB No. 16-14/OPS No. CC2014-041

David Rozen stated that before he will proceed he wanted to give a little clarification, there are two (2) complaints here by a female and male. Mr. Rozen stated that OPS combined them because it involves the same incident, officers, and parties. Mr. Rozen stated that he will refer to the complainants as male and female.

Mr. Rozen stated that he reviewed the following materials: OPS confidential report for both complainants; CPRB confidential reports for both complainants; APD Grievance notification report; approximately twenty five (25) IDCs; APS court/city assignments; E-justice responsive inquire of both complainants; conversation between the Commander and Mr. Rozen.

Mr. Rozen stated that the allegation is that the two (2) complainants were in city court in the city of Albany, the female was holding a young child and the male kept opening and closing the door to the courtroom, being disruptive and talking. The officer politely came over and told the individuals that they needed to remove themselves from the situation and were rather disruptive. The officers who observed the incident were interviewed by OPS and stated that the officer walked them outside and asked them to leave. The complainants alleged that the officer was rather aggressive and put the child's safety in danger. The officers who witnessed the incident stated that the male gave the female the child and attempted to bump chests with the officer and at no point did they observe the officer being aggressive. The complainants alleged that they went to the sergeant on scene and wanted to file a complaint and to get the officer's name and badge number but the sergeant wasn't compliant and turned them away.

Mr. Rozen stated that on the conduct standards allegation the OPS recommendation is *not sustained* which the where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. Mr. Rozen stated that this was a he said she said type of complaint. According to the OPS review, from the witnesses present it was apparent that the male was very aggressive and would not complying, the sergeant claims that he went to get a complaint form but when he returned the individuals had left. Mr. Rozen stated that when these individuals went to the police station 20 minutes later they were able to give OPS the officer's badge numbers and were able to identify the officers, which is inconsistent with the complainant's complaint.

Mr. Rozen asked if the complainants were present, the complainants were not present.

Mr. Rozen stated that for the first allegation of conduct standards the female complainant alleged that the officer was aggressive, intimidating and rude and that the officer's aggressive demeanor put her three (3) month old child at risk. According to the OPS investigation, the officers who witnessed the situation recalled the male complainant saying that he wanted to settle this outside and that his behavior was aggressive and ungentlemanly like. Mr. Rozen stated that he would agree with the OPS recommendation because this is a he said she said scenario. Mr. Rozen noted that there is no video because this occurred in the courthouse and for privacy reasons it was not given over, and there was no audio because the court personnel do not carry audio devices.

David Rozen moved to concur with the OPS finding of *not sustained* for the conduct standards allegation. Akosua Yeboah seconded the motion. The motion carried unanimously.

Mr. Rozen stated that on the call handling allegation the OPS recommendation is *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that he spoke to the sergeant and asked for a complaint form or the officer's name and was denied. According to the OPS review, the sergeant claims that he went to get a complaint form but when he returned the individuals had left. When the individuals went to file a complaint with OPS approximately 20 minutes later they were able to give the officer's badge numbers and were able to identify the officers by name, but it is unclear as to what happened during that period of time. Mr. Rozen noted that he had had a conversation with Commander Hicks as to why complaint forms weren't available at the scene, and he was advised that there is a glass partition between the complainants and the sergeant and the complaint forms are located on the sergeant's side of the partition. Mr. Rozen stated that that explanation was acceptable for this complaint but would be in favor of recommending that the complainant forms be more accessible at the courthouse.

Chairman Edward Smart asked where the officer was going if the forms were behind the glass with him.

Commander Hicks stated that there is a vestibule area and a glass partition where officers sit, this sergeant was in the vestibule area talking with the complainant and had to walk behind the glass partition to get to the desk or cubby where the forms are.

Mr. Rozen stated that for this complaint he understands what happened and agrees with the OPS recommendation, but he would also like to move for a policy change which would move the forms to a public area.

David Rozen moved to concur with the OPS finding of *not sustained* for the call handling allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

David Rozen moved for the Board to send a letter to the Chief recommending that the complaint forms be moved to a public area as opposed to behind the glass partition where they need to be requested. Maritza Martinez seconded the motion. The motion carried unanimously.

CPRB No. 17-14/OPS No. CC2014-045 (Presented by A. Yeboah)

Akosua Yeboah summarized the complaint. The complainant alleged that an APD officer obtained information on his driver's license without authorization and he gave that information to the mother of the complainant's child to be used in a family court proceeding. The complainant further alleges that the officer in question lives with and is engaged to the mother of the complainant's children and obtained the information for purely personal rather than official criminal justice purposes. Due to this action it is alleged that the officer violated a standing general order.

Ms. Yeboah reported that she reviewed the following documents: Confidential Reports; IDC; Citizen Complaint Form; General Order No. 4.2.35.

Ms. Yeboah asked if the complainant was present, it was noted that the complainant was not present.

Ms. Yeboah stated that this was a cut and dry case and that it was clear from her review of the case that the officer in question did violate the general order. Ms. Yeboah stated that on the arrest authority and procedures allegation the OPS recommendation is *sustained* which is where the review discloses sufficient facts to prove the allegations made in the complaint. According to the OPS investigation, the officer admitted that he did run the complainant's drivers license and then gave that information to a non-authorized person. Ms. Yeboah read the language of General Order 4.2.35 which states "Criminal Justice Information may only be accessed, used and or disseminated by authorized personnel and for official criminal justice purposes." Ms. Yeboah stated that she agreed with the OPS finding because the review showed that the officer ran the driver's license without cause and gave information to a non-authorized person in violation of the general order. Ms. Yeboah stated that she wanted to commend OPS, she stated that while the Board and OPS sometimes do not agree on findings in this case while the officer had a really compelling personal reason for doing what he did. Ms. Yeboah stated that this officer believed that a child who was presumably close to him was in danger, and while that is a compelling reason to do what he did there are proper ways to do thing and improper ways but when an office puts on the uniform and the badge they are held to a higher standard of ethics and ways of behavior.

Akosua Yeboah moved to concur with the OPS finding of *sustained* for the arrest authority and procedures allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Chairman Smart stated that the Board wanted to thank OPS for its thorough and professional review of the case, but they also wanted to thank the officer in taking responsibility for his actions.

CPRB No. 26-14/OPS No. CC2014-068 (Presented by E. Sarfoh)

Eugene Sarfoh summarized the allegation. Mr. Sarfoh stated that this complaint arises from an event which took place on July 14, 2014. The complainant has had other matters before the Board in the past, this complaint is in regards to the renewal of his hack license which would permit him to operate a taxi in the city of Albany.

Mr. Sarfoh reported that he reviewed the following documents: OPS file; IDCs dated July 24 and 23, 2014; law related to hack license renewal Albany City Code Chapter 353 Vehicles for Hire; OPS Confidential Report; Citizen Complaint Form.

Mr. Sarfoh stated that this complainant has a number of vehicle and traffic violations pending related to other incidents some of which have been heard by the Board.¹ Mr. Sarfoh stated that on the conduct standards allegation the OPS recommendation is *unfounded* which where the review shows that the act or acts complained of did not occur or were misconstrued. The complainant alleged that he submitted a renewal request for an Albany City Taxi Operator License to the Albany Police Department and a sergeant "spitefully" declined it. The complainant further alleged that he was told by the sergeant that because he, the complainant, had several outstanding traffic ticket issues with Traffic Court that could result in his loss of a driver's license that he could not at that time review the permit. The complainant alleges that the sergeant stated that if the complainant were issued the permit and then lost his NYS driver's license he could produce the permit in lieu of a drivers license as proof of valid operating privileges. Mr. Sarfoh stated that the complainant is alleging that he wants to renew his hack license and has matters pending in traffic court, based in part on that he submitted his renewal and was denied. Mr. Sarfoh stated that while he was denied he was told that if the tickets were resolved his application could be reconsidered, the complainant's objection is that he is innocent until proven guilty and his tickets had not been adjudicated at that time.

According to the OPS investigation, there had been four (4) tickets issued within eleven (11) months that there had been other incidents involving relationship with drug activity and there were occasions where the complainant had been stopped with another party

¹ The cases that Mr. Sarfoh was referring to were CPRB No. 09-2014/ OPS No. CC2014-036 which was reviewed on 11/20/14 and CPRB No. 04-2014/ OPS No. CC2014-018 which was reviewed on 10/20/14

simply riding with him and the other party was not a paying customer in the taxi cab which was inappropriate.

Mr. Sarfoh asked if the complainant was present, it was noted that the complainant was not present.

Mr. Sarfoh stated that in reviewing the complainant he was unsure if the tickets that were unresolved could form the basis of a denial to renew the license. Mr. Sarfoh stated that the law allows for a temporary license that can be issued while the tickets are being adjudicated, ultimately it was a discretionary choice that seemed reasonable given all of the complainant's behaviors.

Mr. Sarfoh stated that Albany City Code Chapter 353 titled Vehicles for Hire states "Violation of any provision of the Vehicle and Traffic Law of the State of New York which evidences the inability of the license holder to safely operate a motor vehicle or which evidences a disregard for public safety." It was based on that provision that the denial of the license was based. Mr. Sarfoh stated that it is not clear from this provision that he could be denied for pending tickets, but based on this individual's record there would be enough to deny his application and the officer's discretion seemed appropriated.

David Rozen stated that in the former cases that this individual had before the Board, it was the Board's opinion that this individual had a disregard for public safety so he would agree with the OPS finding.

Akosua Yeboah stated that she noticed that the complainant stated that he did not want to be contacted on his complaint form so she wondered if he was contacted for the investigation of his complaint.

Mr. Sarfoh stated that the complainant was contacted.

Mr. Sarfoh moved to concur with the OPS finding of *unfounded* on for the call handling allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

B. Appointment of New Members to the committee on Complaint Review for February 2015

The following Board members were appointed to the Committee on Complaint review for February 12, 2014.

David Rozen, Akosua Yeboah, Edward Smart, Mickey Bradley, Eugene Sarfoh.

C. Committee Task Force Reports

By-Laws and Rules

Committee Chair David Rozen stated that he had no report at this time.

Community Outreach

Committee Chair Akosua Yeboah stated they are trying to create a workable relationship with ACPAC in order to better attend their meetings and to have a mutually beneficial relationship. Ms. Yeboah stated that they are still working on creating the brochures and they are at the point where the committee is waiting on the Spanish interpretation.

David Rozen stated the Board made a promise to Beverly Paget that one (1) Board member would be at every ACPAC meeting, and that promise has been kept for about the past year.

Mediation

Committee Chair Maritza Martinez stated that she will be meeting with Sharmaine Mosley tomorrow to receive background on mediation. Chair Martinez stated that an individual has been approved to give the training to our mediators. Chair Martinez looks forward to letting the Board know when that training will occur.

Chairman Edward Smart stated that he received an email from Peter Glassman who has shared his plan for the mediation training, and the police union has agreed with his training.

Police Department Liaison-Policy Review/ Recommendations

Committee Chair Mickey Bradley stated that he met with outgoing Chair Tony Potenza to get his recommendations as to how the committee should proceed and he will be reaching out to Board members to get their ideas on what they believe should be looked at and worked on.

Public Official Liaison

Committee Chairman Edward Smart stated that the chair of the public safety committee has asked for a meeting on January 13th at Green Tech School.

Task Force on Monitors

Task Force Chair Eugene Sarfoh stated that he had no report at this time.

Chairman Edward Smart stated that before moving into this next item, Sharmaine is leaving us to join a police review Board in San Diego, CA. Chairman Smart stated that the Board is happy for her and will miss her; he stated that he cannot put into words what a great force she has been in the city of Albany. Chairman Smart stated that this Board has done many great things with her help including the ongoing cooperation of the police department, OPS, and Common Council. Chairman Smart stated that Sharmaine Mosley has been a bright star in the city of Albany, and even though she is moving her star her light will still shine in the city of Albany.

D. Nominations/Elections for Elected Board Officer Positions

Sharmaine Mosley read the slate: Chairman Edward Smart; Vice Chair David Rozen; Secretary Akosua Yeboah.

Eugene Sarfoh moved to suspend the rule which stated that the Board is to adjourn the slate and to vote until the next meeting, and to vote to elect the slate. David Rozen seconded the motion. The motion carried unanimously.

E. Committee/Task Force Chair Elections

Chairman Edward Smart stated that the committees and taskforces will remain the same.

F. Report from the Government Law Center

Government Law Center (GLC) Coordinator for the CPRB Sharmaine Moseley gave her report.

Complaint Inventory as of Date of Meeting

Included in tonight's packets is the complaint database scorecard. As of today, there are currently forty two (42) active complaints. Of those forty two (42) active complaints, five (5) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with thirty seven (37) active complaints. We have at least three (3) cases that should be ready to be reviewed at the next meeting on February 12.

Chairman Smart stated that the low numbers of cases to review reflect the hard work of the Board in getting and remaining up to date with all of the complaints.

Six hundred twenty seven (627) complaints have been closed. The total number of complaints that remain suspended from review is nine (9). The total number of complaints filed to date is six hundred seventy three (673).

Since your last meeting, the GLC received six (6) grievance forms, bringing the total number of forms received to five hundred fifty six (556). In response to our outreach to all individuals, we have received one hundred fifty two (152) CPRB complaint forms, which is twenty eight percent (28%).

Board Vacancies

There are still two (2) vacancies on the Board. One (1) is Mayoral and the other is a Common Council vacancy. Marilyn Hammond has informed me that she will be resigning from the Board as soon as she can get a written notice to the GLC. That will leave two (2) Mayoral vacancies.

Also, members Bradley and Sarfoh are both up for reappointments.

Raymond Brescia stated that there will be a celebration and send off for Sharmaine at Albany Law School on January 15th at 4:30pm. Mr. Brescia stated that there will be a posting for the coordinator job that will be posted and will be shared with the Board and made public shortly.

G. *Report from the Office of Professional Standards*

OPS Detective Kathy Hendricks and Commander Hicks were present. Commander Hicks stated that he has nothing to report.

H. *Report from the Chair*

Chairman Edward Smart stated that he had given his report throughout the meeting.

V. **Public Comment**

Chairman Edward Smart stated that Chairperson for the Common Council's Public Safety Committee was present. Councilperson Leah Golby was invited to say a few words.

Councilperson Golby stated that every time she attends one of these meetings she learns about the process, how the APD works, and how the Board works. She stated that when you read the charge of the Board which is to foster community policing in the city of Albany and for an outsider looking in it may be hard to see how that is possible. Councilperson Golby stated but when you sit here in one of these meetings and you learn about procedural changes as we learned tonight in the contact card, so there really is communication to have the police department to be more responsive to the community. Councilperson Golby wanted to thank the Board for the thoughtfulness and discussion that is given to every case, and while the members do not agree on every case they are doing a terrific, diligent, thoughtful job. She stated that she will miss Sharmaine, who is the only person she knew in the role as coordinator but she wishes her much luck in her upcoming move.

Councilperson Golby stated that the Common Council did just close the call for applications and they received four (4) resumes. They are looking for interview dates.

David Rozen stated that if there is more than one (1) good applicant, could the Common Council share the resumes with the Mayor's office.

Chairman Edward Smart opened the floor for public comment.

VI. **Adjournment**

Chairman Edward Smart adjourned the meeting at 7:10 p.m.

Respectfully Submitted,


Secretary

