

City of Albany

Annual Report

2017

Submitted by

The Government Law Center of Albany Law School

on behalf of the

City of Albany Citizens' Police Review Board



CITIZENS' POLICE REVIEW BOARD

Seventeenth Annual Report of the City of Albany
Citizens' Police Review Board

Submitted to:
The Mayor of the City of Albany
The Common Council of the City of Albany
The Police Chief of the City of Albany

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BACKGROUND

In July 2000, legislation creating the City of Albany Citizens' Police Review Board (the "Board") was signed into law, adding part 33 to Chapter 42 (Departments and Commissions) of the Code of the City of Albany. The purpose of this legislation was to create an independent review body to review and comment on completed investigations of complaints made by citizens against officers of the City of Albany Police Department for alleged misconduct. Its goals were to improve communication between the Police Department and the community, to increase police accountability and credibility with the public, and to create a complaint review process that is free from bias and knowledgeable of actual police practices.

DEFINITIONS

For purposes of this report, the following words and phrases shall have the meaning described in this report:

COMPLAINT - A written statement concerning police conduct which is either submitted to the Citizens' Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department.

GRIEVANCE FORM - An APD form used to gather contact information from the complainant and forwarded to the Government Law Center for CPRB outreach purposes.

CPRB or BOARD - The Citizens' Police Review Board.

GOVERNMENT LAW CENTER (GLC) - The Government Law Center of Albany Law School.

MEDIATION - A structured dispute resolution process in which a neutral third party assists the disputants to reach a negotiated settlement of their differences.

OFFICER - Any sworn police officer of the City of Albany Police Department affected by a citizen complaint.

OFFICE OF PROFESSIONAL STANDARDS (OPS) - The Professional Standards Unit of the City of Albany Police Department.

INTRODUCTION

In a unique arrangement, the Government Law Center of Albany Law School was retained by the City of Albany to provide a number of services to the Board, the City, and the community. Among the services to be provided, §42-340 of the legislation requires that the Government Law Center "file annual reports with the Common Council and the Mayor, which contain statistics and summaries of citizen complaints, including a comparison of the Board's findings with the final determinations of the Police Department" on behalf of the Board. This is the seventeenth Annual Report so submitted, covering the Board's operations from November 1, 2016 to October 31, 2017.

Organization of the Board

The Board is comprised of nine members, five members appointed by the Common Council, and four members appointed by the Mayor, who serve for three-year staggered terms. In selecting the members of the Board, the legislation provides that the Common Council and the Mayor shall endeavor to reflect community diversity in their appointments, and requires that members of the Board reside in the City of Albany; possess a reputation for fairness, integrity, and responsibility; have a demonstrated interest in public affairs and services; and neither be an officer or employee nor a relative of an officer or employee of the City of Albany.

The following members constituted the Board during its seventeenth year of operation:

Larry Becker

Appointed: 03/27/2015

Mickey Bradley

Appointed: 02/07/2012

Reverend Dr. Victor L. Collier

Appointed: 03/22/2016

Zachary J. Garafalo

Appointed: 06/6/2016

Charles Goodbee, Sr.

Appointed: 02/19/2015

Michael A. Grady

Appointed: 09/01/2015

Maritza Martinez

Appointed: 02/07/2012

Ivy S. Morris

Appointed: 04/06/2015

Matt Ingram

Appointed: 10/17/2016

David A. Rozen

Appointed: 10/15/2012

Veneilya Harden

Appointed: 10/20/2016

Appointments, Reappointments and Vacancies

First Quarter

Larry Becker's original term ended on October 26, 2016, and he was reappointed by Common Council to a first term on January 15, 2017. Ivy Morris's original term ended on October 26, 2016, and she was reappointed by Common Council to a first term on January 5, 2017. Zachary Garafalo's first term ended on October 26, 2016, and his reappointment is pending.

Second Quarter

Newly appointed Board members Matt Ingram and Veneilya Harden received their Corporation Council orientation at the GLC and subsequently started voting on cases.

Third Quarter

Maureen Obie resigned as the Coordinator for the CPRB. Clay Gustave was named the Interim Coordinator.

Fourth Quarter

There were two Common Council vacancies resulting from Board member Charles Goodbee termed on October 27, 2017, and Board Chair Mickey Bradley also termed on October 27, 2017.

New Member Orientation Program

According to § 42-339 of the legislation, "completion of the orientation program concerning the goals, powers, and procedures of the Board is required before a member may participate as a voting member. In addition, graduation from the Albany Police Department's Citizen Police Academy . . . within six months of the start of the member's term is required."

During the first and Second quarter of 2017, Board members Veneilya Harden and Zach Matt Ingram attended and participated in the Board's orientation program which consisted of two sessions. The first session of the orientation program was coordinated and facilitated by the Government Law Center to educate the new member about the Board's organization and operation and included training on the CPRB Legislation; By-Laws and Rules of Procedure; the complaint review process; the Board's public education and community outreach program; the role of the Government Law Center as administrative staff; the Open Meetings Law; the Freedom of Information Law; Section 50-a of the New York Civil Rights Law; an introduction on laws relating to civil rights violations and excessive use of force; and ethics. The second session of the orientation program was coordinated and facilitated by the Albany Police Department's Office of Professional Standards; this session educated the members on the APD's organization and operation.

New Member Citizens' Police Academy Training

During the second quarter of 2017, new Board members Veneilya Harden and Zach Matt Ingram attended the Albany Citizen Police Academy as a part of the training requirement. The Citizen Police Academy consists of fifteen three-hour training sessions. These sessions included an overview of the Albany Police Department, including its command structure, patrol unit, and the Office of Professional Standards. As part of the training, Board members are required to participate in a ride-along with an APD officer during the officer's work shift. This provides an opportunity for Board members to observe the interaction between the officers and the community.

Officers

During its seventeenth year of operation, the Board's officers were:

Chairperson Mickey Bradley

Vice-Chairperson Ivy S. Morris

Secretary Michael A. Grady

During the first quarter of 2017, nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board's By-laws (Art. IV, Section 1). Mickey Bradley was nominated and elected for the position of Chair. Ivy Morris was nominated and elected for the position of Vice Chair. Michael Grady was nominated and elected for the position of Secretary. During the second quarter of 2016, the slate was presented, voted on, and approved unanimously at the Board's February 11, 2017, meeting.

COMPLAINT REVIEW: SUMMARIES AND STATISTICS

Section 42-340C of Chapter 42, Part 33 of the Albany City Code charges the Board with providing "statistics and summaries of citizen complaints, including a comparison of [its] findings with the final determinations of the [Police] Department."

First Quarter

The Board received six new complaints in addition to its forty three active complaints and two suspended complaints. Monitors were appointed to investigate three of the six new complaints. Of the forty nine complaints before the Board, the Board presented eight complaints for review and rendered findings for the sixteen allegation(s) contained in eight complaints. Eight of these complaints were closed and contained a total of sixteen allegations of misconduct. As to the eight complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all eight complaints.

Second Quarter

The Board received seven new complaints in addition to its thirty six active complaints and two suspended complaints. Monitors were appointed to investigate four of the seven new complaints. Of the forty three complaints before the Board, the Board presented eight complaints for review and rendered findings for the thirty four allegation(s) contained in nine complaints. Eight of these complaints were closed and contained a total of thirty four allegations of misconduct. As to the eight complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in six complaints. One complaint, in addition to the eight reviewed, was closed with no review.

Third Quarter

The Board received one new complaint in addition to its thirty active complaints and two suspended complaints. A monitor was appointed to investigate the one new complaint. Of the thirty complaints before the Board, the Board presented eleven complaints for review and rendered findings for the thirty allegations contained in eleven complaints. Eleven of these eleven complaints were closed and contained a total of thirty allegations of misconduct. As to the eleven complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in eight complaints. One complaint, in addition to the eleven reviewed, was closed with no review.

Fourth Quarter

The Board received thirteen new complaints in addition to its twenty eight active complaints and two suspended complaints. Monitors were appointed to investigate one of the three new complaints. Of the twenty-eight complaints before the Board, the Board presented twelve complaints for review and rendered findings for the thirty one allegation(s) contained in twelve complaints. Twelve of these twelve complaints were closed and contained a total of thirty one allegations of misconduct. As to the twelve complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in six complaints. One complaint, in addition to the 8 complaints reviewed, was closed with no review.

Number of Complaints Filed

The Board received twenty seven new complaints (See Figure 1). The Board received an average of two complaints per month. These complaints included those filed with the Board directly (either in person, by regular U.S. mail, or via facsimile) and those filed with the Board through the Office of Professional Standards (OPS).

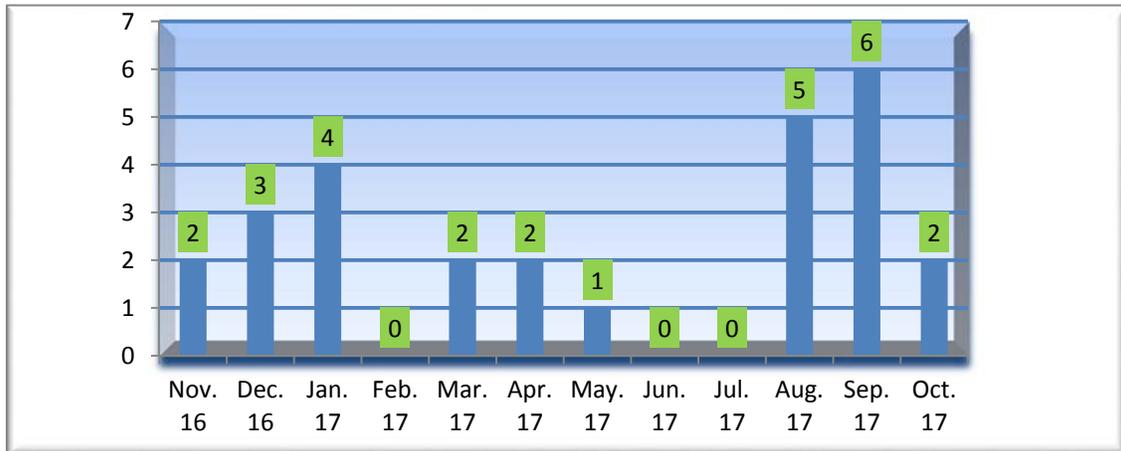


Figure 1: Monthly breakdown of the 27 complaints filed from November 1, 2016 to October 31, 2017.

Since the Board’s inception (October 27, 2000 to October 31, 2017), the Board received a total of seven hundred and fifty two complaints (See Figure 2). The Board received an average of forty four complaints per year. These complaints included those filed with the Board directly (either in person, by regular U.S. mail, or via facsimile) and those filed with the Board through the Office of Professional Standards (OPS).

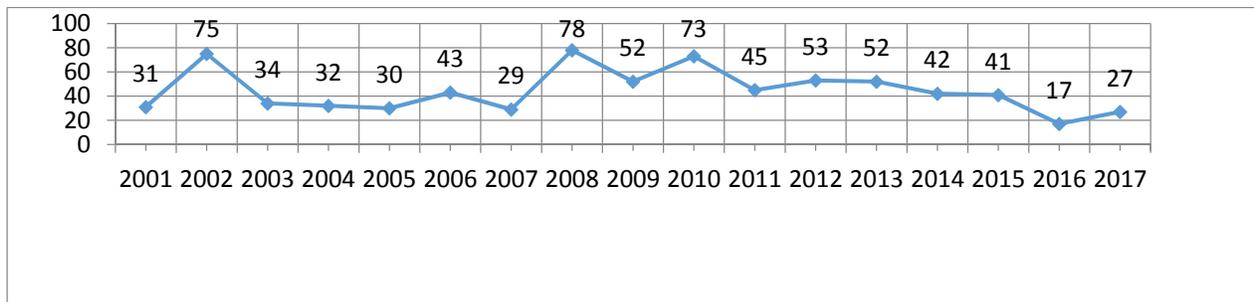


Figure 2: Yearly breakdown of the 752 complaints filed from October 27, 2000 to October 31, 2017

Appointment of Monitors

Under § 42-343(B)(1) of the legislation, the Board is required to appoint an individual to observe and monitor the Office of Professional Standards’ investigation of a complaint “in the event the complaint alleges use of force or a violation of civil rights.” Of the twenty seven complaints filed, the Board appointed a monitor to observe each OPS investigation of nine complaints.

Race/Ethnicity and Gender of the Complainant(s)

Complainants who file a Citizen Complaint Form with the Board may, at their option, include information relating to their race/ethnicity and gender. Of the twenty seven complaints filed with the Board in the seventeenth year, twenty one contained information from the complainant regarding the complainant’s gender; twenty one contained information from the complainant regarding the complainant’s race/ethnicity; and sixteen contained information from the complainant regarding the complainant’s gender and race/ethnicity. The twenty one identified complainants out of these twenty seven complaints were comprised of: two African-American females; four African-American males; two Caucasian females; four Caucasian males; and one Hispanic male (See Figure 3).

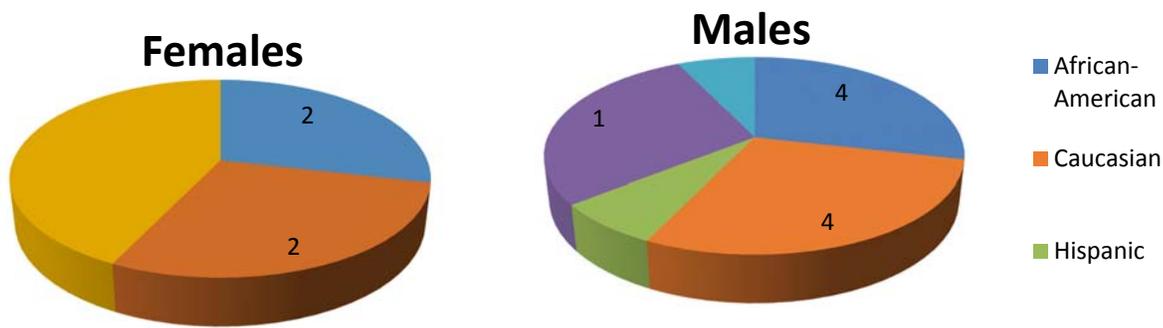


Figure 3: Race/Ethnicity and Gender of the Complainant

Of the twenty seven complaints filed with the Board in the seventeenth year, twenty one complaints were submitted on a complaint form. Of those twenty one complaints, sixteen complainants chose to submit information regarding their race/ethnicity and complaints chose not to submit information regarding their gender. The gender of the complainant in any of the twenty seven complaints filed was not determined by language contained in the complaint form, the Office of Professional Standards' preliminary report, and/or the report of the monitor, if a monitor was assigned to the complaint.

Race/Ethnicity and Gender of the Officer(s)

In addition to the optional section provided for complainants, the Citizen Complaint Form provides a section for the complainant to enter descriptive information about the officer(s) who are the subject of the complaint. In this section, the complainant is asked to provide race/ethnicity and gender information about the officer(s), if known. Seventeen police officer descriptions, including race/ethnicity and/or gender, were included within the twenty seven complaints filed with the Board.

Five of the seventeen complaints filed with the Board included information about the police officer's gender provided by the complainants. Of the five police officer gender descriptions contained in the Seventeen complaints, eight of those descriptions were redacted by the Office of Professional Standards. Of the two redacted descriptions, the gender of one male and one female was assumed from the language contained in the complaint. Of the six police officers gender description that was not redacted, all six were males. Of the ten police officers description whose gender was not provided by the complainant, the gender of the police officers could not be assumed from the language contained in the complaint.

The ethnicity/race of eight police officers was provided by the complainants. Fifteen police officer ethnicity/race descriptions, however, four were redacted by the Office of Professional Standards. Therefore, in those five descriptions, the ethnicity/race of the police officers could not be ascertained from the language contained in the complaints.

Allegations Contained in the Complaints

Forty-one allegations were made in the complaints where allegations could be determined. Of the forty one allegations, the Board identified nine categories of allegations. Sixteen sub-categories of allegations were also identified.

Arrest Authority and Procedures	12
Arrest Authority & Procedure	4
False/Illegal/Improper/Unlawful Arrest	9
Abuse of Authority- Intimidating Behavior	1

Threatened Arrest	1
Call Handling	12
Call Handling	7
Failure to Complete Report/Investigate Properly/Handle Report	3
Failure/Refusal to Provide Information/Assistance	1
Illegal/Improper/Unlawful Stop/Detention/Questioning/Search/Harassment	1
Illegal/Improper/Unlawful Search	1
Evidence & Property Handling	1
Evidence and Property Handling	1
Unprofessional Conduct Standards	10
Derogatory/Inappropriate/Profane/Offensive/Vulgar/Threatening/Racially-Biased/Unnecessary Language	3
Racial Bias	1
Unprofessional Conduct	6
Use of Force	6
Excessive Use of Force	1
Improper Use of Force	3
Unnecessary Use of Force	1
Use of Force	1

Figure 4: Allegations Contained in the 44 Complaints Filed from November 1, 2016 to October 31, 2017.

Given that many of these complaints contained more than one allegation, the total number of allegations made is not equal to the number of complaints filed with the Board.

Twenty-nine percent of the allegations identified were classified as Arrest Authority and Procedures. Arrest Authority and Procedures allegations included: arrest authority & procedure and false/illegal/improper/unlawful arrest.

Twenty-nine percent of the misconduct alleged were classified as Call Handling. Call Handling allegations included: call handling; failure to complete report/investigate properly/handle report; failure/refusal to provide information; illegal/improper/unlawful stop/detention/questioning/search/harassment; and illegal/improper/unlawful search.

Twenty-nine percent of the allegations identified were classified as Evidence & Property Handling.

Thirteen percent (13%) of the allegations identified were classified as Unprofessional Conduct and Use of Force.

Suspension of Review

“Upon the written recommendation of the Corporation Counsel, the Common Council or the Mayor may suspend the [Board’s] review of any complaint where a separate criminal investigation is underway or where a civil action against the City is underway, or pending.” (See § 42-348). The Board had two suspended complaint, which was carried over from the previous year of operation (November 1, 2015 - October 31, 2016). Two complaints were suspended in the Board’s sixteenth year. No complaints had their suspension lifted. The Board ended its seventeenth year of operation with two suspended complaints.

Board and Police Department Findings

At the conclusion of the Office of Professional Standards’ investigation of a citizen complaint, the Police Department is required to submit a preliminary report of its findings to the Board. (See § 42-343(E)). Following its review and deliberation of a complaint, which may include, in appropriate cases: 1) review of the complaint, the OPS’s preliminary report, the monitor’s report, if one has been assigned to the complaint, transcripts, and any other information contained in the Board’s complaint file and the OPS’s investigative file, which is not confidential and/or otherwise protected by state, federal, local law, or by the collective bargaining agreement; 2) presentations made by monitors; and 3) questioning of detectives from the OPS and officers of the Police Department, the Board is authorized by § 42-343(F)(1) of the legislation to render a finding or findings on the complaint. The Chief of Police must then “review the Department’s preliminary report in light of the [Board’s] finding and. . . Make the Department’s final determination.” (See § 42-345).

Since seventeen complaints were reviewed and closed contained, multiple allegations of misconduct, the number of findings made, is not equal to the number of complaints in which findings were rendered. The twenty complaints that were reviewed and closed contained forty one allegations of misconduct.

Further Investigation/Board Action

Under § 42-343(F)(2) of the legislation, the Board may, after its “review and deliberation of the preliminary report of the Department’s finding . . . request that Professional Standards conduct further investigation of the complaint.”

Of the forty-one complaints reviewed, the Board sent three complaint(s) reviewed back to the Office of Professional Standards for further investigation and/or because the motions made by the Board failed. Zero complaints were reviewed more than once.

One complaint was closed without review during the Board’s seventeenth year. This action included the Board voting not to accept and review these complaints due to the complaint being filed outside of the statute of limitations.

Mediation

After a complaint is filed, § 42-346(C) of the legislation provides that “the complainant or officer may at any time in the review process utilize the [Board’s] mediation process . . . to resolve the complaint. Additionally, the Board is authorized under § 32-343(F)(4) to refer the complaint to mediation following its review and deliberation of the Department’s preliminary report of its findings. In the seventeenth year of operation, the Board did not forwarded any complaints to mediation.

GRIEVANCE FORM REVIEW: SUMMARIES AND STATISTICS

The Board received twenty seven new grievance forms from the OPS. Out of the twenty seven new grievance forms received from the OPS, two complaint forms were filed. Of the six hundred and thirty six grievance forms received by the Board since the inception of the grievance form process, One hundred and sixty complaint forms were filed.

REPORTS

Three quarterly reports and one annual report were submitted to the Board for approval. Each report detailed the activities of the Board and the Government Law Center during each time period covered. A copy of each of these reports was submitted and filed with the Mayor, the Common Council, and the Chief of Police as required by § 42-340(c) of the City

Code. Additional copies were forwarded to members of the public, community groups and organizations, and other interested parties on the Board's mailing list. These reports were also posted on the Board's website.

MEETINGS OF THE BOARD

The Board met as a whole seven times for the conduct of business. Meetings were devoted primarily to the review of complaints and a discussion of committee activities, and due to conflicting summer vacation schedules, the Board did not meet during the months of July and August. There was a public comment period held at each of the monthly meetings.

CONCLUSION

The Board re-elected and elected Board officers; elected chairs and members for its committees and task force; continued to work collaboratively with the APD towards the enactment of a mediation program; revisited its outreach practices and complaint forms; served as guest lecturers to community-based organizations and tabled at a local event; reviewed complaints and closed a total of seventeen of its active complaints; held seven regular monthly meetings; held several committee/task force meetings and trainings; reviewed and approved two quarterly reports and one annual report; and participated in meetings with the APD Command Staff, the Office of Professional Standards, the Albany Common Council's Public Safety Committee, and City officials.

The Albany Citizens' Police Review Board remains dedicated to improving communication between the City of Albany Police Department and the community; increasing police accountability and credibility with the public; and building upon and maintaining a complaint review process that is credible, impartial, and fair to all.

Respectfully submitted,

The Government Law Center of Albany Law School
Approved by and submitted on behalf of the
City of Albany Citizens' Police Review Board

Approved by the CPRB: March 8, 2018