

City of Albany

Annual Report

2018

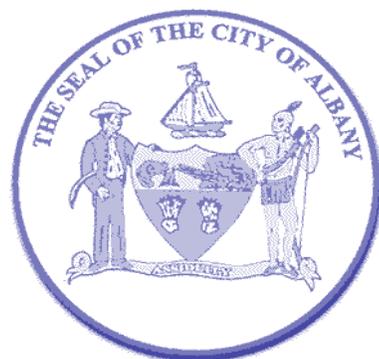
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Submitted by

The Government Law Center of Albany Law School

on behalf of the

City of Albany Citizens' Police Review Board



CITIZENS' POLICE REVIEW BOARD

Eighteenth 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 Eighteenth Annual Report so submitted, covering the Board's operations from November 1, 2017 to October 31, 2018.

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 2018:

Larry Becker

Appointed: 03/27/2015

Second Quarter

The Mayor has yet to fill the CPRB vacancy.

Reverend Dr. Victor L. Collier

Appointed: 03/22/2016

Third Quarter

John T. Evers

Appointed: 11/15/2018

The Mayor has yet to fill the CPRB vacancy.

Zachary J. Garafalo, *Vice Chair*

Appointed: 06/6/2016

Fourth Quarter

Veneilya Harden, *Secretary*

Appointed: 10/20/2016

The Mayor has yet to fill the CPRB vacancy.

Matt Ingram

Appointed: 10/17/2016

Ivy S. Morris, *Chair*

Appointed: 04/06/2015

Warren E. Hamilton

Appointed: 11/01/2018

Appointments, Reappointments and Vacancies

First Quarter

Common Council appointed two new members to the board: Warren E. Hamilton and John T. Evers. The Mayor has yet to fill her vacancy.

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 2018, Board members Warren E. Hamilton and John T. Evers 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 members 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 2018, new Board members Warren E. Hamilton and John T. Evers 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 the first quarter of 2018 nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board’s By-laws (Art. IV, Section 1). Ivy Morris was nominated and elected for the position of Chair. Zach Garafalo was nominated and elected for the position of Vice Chair. Veneilya Harden was nominated and elected for the position of Secretary. During the second quarter of 2018 the slate was presented, voted on, and approved unanimously at the Board’s March 18, 2018 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

During the first quarter of 2018, the Board received twelve new complaints in addition to its thirteen active complaints and two suspended complaints. Monitors were appointed to investigate nine of the twelve new complaints. The Board presented five complaints for review and rendered findings for eleven allegation(s) contained in the five complaints. As to the five complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all five complaints.

Second Quarter

During the second quarter of 2018, the Board received four new complaints in addition to its eleven active complaints and three suspended complaints. Monitors were appointed to investigate all four new complaints. Of the eleven complaints before the Board, the Board presented four complaints for review and rendered findings for twelve allegations contained in the four complaints. As to the four complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in a total of three complaints.

Third Quarter

The Board received two new complaints in addition to its eleven active complaints and three suspended complaints. Of the eleven complaints before the Board, four complaints were presented for review and rendered findings for thirteen allegations. Monitors were appointed to investigate three of the four complaints presented. As to the four complaints that were reviewed and closed the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all complaints.

Fourth Quarter

The Board received five new complaints in addition to its eight active complaints and four suspended complaints. Of the thirteen complaints before the Board, One complaint was presented for review and rendered findings for three allegations. A Monitor was appointed to investigate the allegations presented. As to the three allegations that were reviewed and closed, the Board made one finding not consistent with the preliminary findings of the Office of Professional Standards.

Number of Complaints Filed

The Board received twenty five 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).

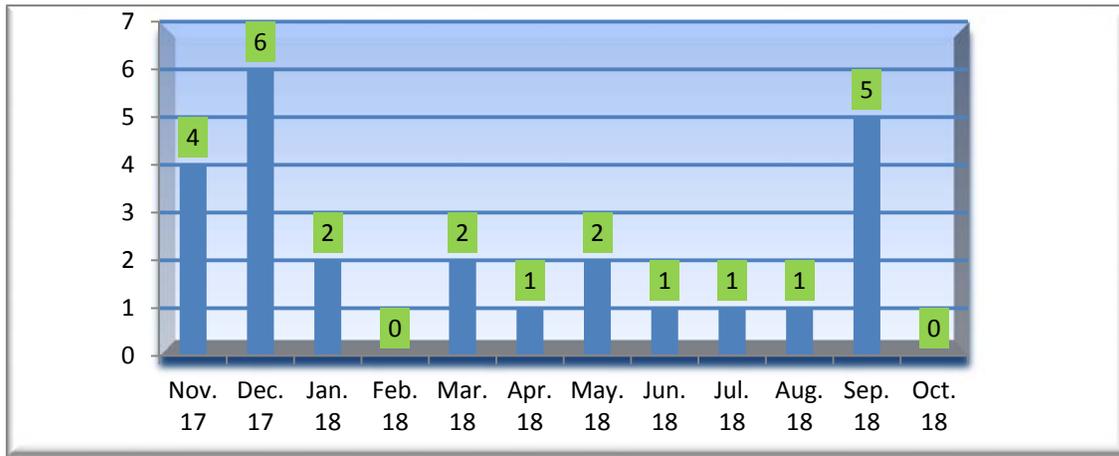


Figure 1: Monthly breakdown of the 25 complaints filed from November 1, 2017 to October 31, 2018.

Since the Board’s inception (October 27, 2000 to October 31, 2018), 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 777 complaints filed from October 27, 2000 to October 31, 2018

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 five complaints filed, the Board appointed a monitor to observe OPS investigations of twenty one 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 five complaints filed with the Board in the eighteenth year, twenty two contained information from the complainant regarding the complainant’s gender; nineteen contained information from the complainant regarding the complainant’s race/ethnicity. The nineteen identified complainants out of these twenty five complaints were comprised of: 24% African-American females; 28% African-American males; 4% Caucasian females; 4% Caucasian males; 4%

Hispanic male; 4% Hispanic females and 28% did not identify race and/or gender (See Figure 3).

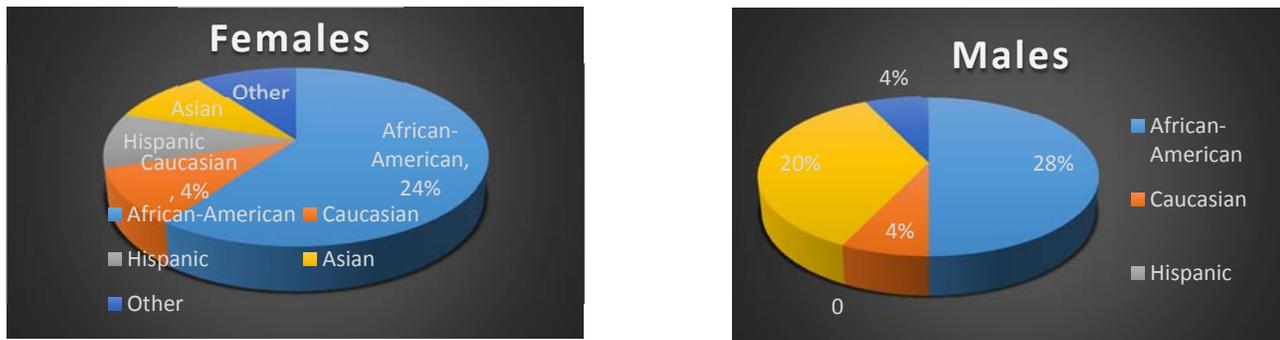


Figure 3: Race/Ethnicity and Gender of the Complainant

All of the twenty five complaints filed with the Board in 2018, were submitted on a complaint form. Of those complaints, twenty two complainants chose to submit information regarding their race/ethnicity and three complainants chose not to submit information regarding their gender. The gender of the complainant in any of the twenty two 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.

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	6
False/Illegal/Improper/Unlawful Arrest	1
Abuse of Authority- Intimidating Behavior	1
Threatened Arrest	1
Call Handling	1
Call Handling	6

Failure to Complete Report/Investigate Properly/Handle Report	0
Failure/Refusal to Provide Information/Assistance	0
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	3
Derogatory/Inappropriate/Profane/Offensive/Vulgar/Threatening/Racially-Biased/Unnecessary Language	1
Racial Bias	1
Unprofessional Conduct	1
Use of Force	4
Excessive Use of Force	1
Improper Use of Force	1
Unnecessary Use of Force	1
Use of Force	1

Figure 4: Allegations Contained in the 44 Complaints Filed from November 1, 2017 to October 31, 2018.

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 and 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 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, 2017 - October 31, 2018). Two complaints were suspended in the Board’s sixteenth year. These suspensions remained in place. 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 the twenty two complaints 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 twenty two complaints reviewed, the Board sent two complaints reviewed, back to the Office of Professional Standards for further investigation because the board was unsatisfied with the OPS findings and The Board did not agree with OPS parsing of allegations.

One complaint was closed without review in 2018. This action included the Board voting not to accept and review this complaints due to the complaint being against a non APD member.

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 eighteenth year of operation the Board did not forward any complaints to mediation.

GRIEVANCE FORM REVIEW: SUMMARIES AND STATISTICS

The Board received eleven new grievance forms from OPS. Out of the ten new grievance forms received from OPS no complaint forms were filed. Of the six hundred and fifty seven grievance forms received by the Board, since the inception of the grievance form process one hundred and sixty complaint forms were filed.

REPORTS

Four 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 met 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 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 twenty two of its active complaints; held seven regular monthly meetings; held several committee/task force meetings and trainings; reviewed and approved four 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 has 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: TBD