

# City of Albany

Draft

Fourth Quarter Report  
August 1, 2018 – October 31, 2018

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**

Fourth Quarter Report of the City of Albany  
Citizens' Police Review Board

August 1, 2018 – October 31, 2018

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

## **BACKGROUND**

Section 42-340 of Chapter 42, Part 33 of the Albany City Code requires the Government Law Center of Albany Law School to file, on behalf of the Albany Citizens' Police Review Board (CPRB), quarterly reports containing "statistics and summaries of citizen complaints, including a comparison of the CPRB's findings with the final determinations of the [Police] Department." This is the Fourth Quarter Report so submitted in the year 2018.

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. Many of these services are discussed, as appropriate, below.

## **DEFINITIONS**

### **Definition of Terms**

For purposes of this Report, the following words and phrases shall have the following meanings:

APD - City of Albany Police Department

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

CPRB or BOARD - Citizens' Police Review Board

GOVERNMENT LAW CENTER - The Government Law Center of Albany Law School

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

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) - Professional Standards Unit of the City of Albany Police Department

## **Definition of CPRB Findings**

Section 42-344A of Chapter 42, Part 33 of the Albany City Code charges the Board with making one of the following findings on each allegation by majority vote after review and deliberation on an investigation:

- (1) *Sustained* - where the review discloses sufficient facts to prove the allegations made in the complaint.
- (2) *Not Sustained* - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
- (3) *Exonerated* - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.
- (4) *Unfounded* - where the review shows that the act or acts complained [of] did not occur or were misconstrued.
- (5) *Ineffective Policy or Training* - where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation.
- (6) *No Finding* - where, for example, the complaint failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; or where the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.
- (7) *Mediation* - where the complaint is resolved by mediation.

## **BOARD MEMBERSHIP**

The following members constituted the Board during the third quarter of 2018:

Larry Becker	Zach Garafalo, <i>Vice-Chair</i>	Matthew Ingram
Reverend Victor Collier	Warren E. Hamilton	Ivy Morris, <i>Chair</i>
John T. Evers	Veneilya A. Harden, <i>Secretary</i>	

As of August 2018, there is one position open for a Mayoral Appointee.

## **COMPLAINT REVIEW**

Under Section II, Subsection I of the Board's Operating Procedures, each of the eight appointed members of the Committee on Complaint Review, in addition to the Chair of the Committee, will be responsible for the presentation of a particular complaint to the Board at its monthly meetings as assigned by the Chair of the Committee. The Board was off for the month of August and October meeting was cancelled. Therefore, one complaint containing three allegations was presented for review in the fourth quarter of 2018.

## **COMPLAINT SUMMARIES**

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:

### **A. CPRB No. 15-17 / OPS No. CC2017-035 [monitor appointed]**

#### **1. Office of Professional Standards description of allegation:**

The complainant alleged she has called APD numerous times for incidents in which the neighbors behind her residence have either stolen or damaged her property. She specifically alleged on July 19, 2017, while in her back parking lot the neighbor came through an opening in the fence and made verbal threats. The complainant stated she called APD and when officers arrived 30 to 45 minutes later she explained what occurred. She stated the officers went and spoke with the neighbor then came back and asked how long the complainant has lived there and said her only alternative was to move. She alleged she was told she could not get a restraining order and couldn't do anything.

**Office of Professional Standards categorized this allegation as:** Call Handling

**Office of Professional Standards finding:** *Unfounded* - Where the review shows that the act or acts complained [of] did not occur or were misconstrued.

**CPRB finding:** *Unfounded* - Where the review shows that the act or acts complained [of] did not occur or were misconstrued. OPS conducted adequate investigation and the CPRB agrees with the method and outcome of the investigation and as a result of the investigation the incident described in the allegation was not an accurate depiction of the actual events that occurred.

## **2. Office of Professional Standards description of allegation:**

The complaint alleged she called APD because her neighbor was making verbal threats and when the officers arrived she advised them what occurred and they went and spoke with the neighbor. It is alleged the officers then asked the complainant how long she has resided in her residence and that her only alternative was to move. The officers stated they spoke with the complainant and then the neighbor in an attempt to resolve the matter. The officers stated the complainant did not want to hear any of their attempts to give her resolutions to the matter on dealing with the neighbor, such as contacting the landlord, parking her car in another location or attempt to talk with the neighbor to resolve the issues with the children. The officers documented the incident via an SIR for Harassment and stated they advised the complainant on how to go about obtaining an Order of Protection. The officers responded, listened to both sides the matter, attempted to resolve the issue and documented the incident via an SIR for the charge of Harassment. The officers are unable to arrest for Harassment, a violation that did not occur in their presence. As per policy they documented the incident on the SIR and advised the complainant to respond to SSTA to complete a court information which would then be reviewed by the Judge and a court summons would be issued for both parties to appear in court on the matter at which time if there is sufficient cause the judge could issue an Order of Protection for both parties. It should be noted that beat officers attempted to make contact with the complainant to bring the court information to her residence to sign and she refused to sign it. If the officers did not take the complaint serious an SIR would not have been documented or attempts to bring the court information to the complainant to sign.

**Office of Professional Standards categorized this allegation as:** Use of Force

**Office of Professional Standards finding:** *Exonerated* - Where he acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.

**CPRB finding:** *Not Sustained* - OPS conducted an adequate investigation and the CPRB agrees with the method and not the outcome of the investigation, there was not enough evidence uncovered to prove or disprove the allegation.

## **3. Office of Professional Standards description of allegation:**

The complainant alleged after not receiving assistance from the officers on scene she contacted OPS to file a complaint. It is alleged the detective she spoke with was rude, sarcastic and talking fast so that she did not understand what she was being told. There is no indication in the recorded phone call the detective was being rude or sarcastic, the detective was however attempting to explain to the

complainant what the officers documented and how to go about getting the matter into court. Both the complainant and detective began to talk over one another in an attempt to have their information relayed. Understandably the complainant was frustrated and upset feeling like her matter was not taken serious when in fact it was taken serious and the responding officers documented the incident for her. The complainant understood what was being relayed to her about what she needed to do, because she told the detective to hold on she's at work and had to get a pen from her desk and relayed back the information as it was being told to her. She was also asked if she had any further questions and indicated she knew where to go.

**Office of Professional Standards categorized this allegation as:** Call Handling

**Office of Professional Standards finding:** *Unfounded* – where the review shows that the act or acts complained of did not occur or were misconstrued.

**CPRB finding:** *Unfounded* - OPS conducted adequate investigation and the CPRB agrees with the method and outcome of the investigation and as a result of the investigation, the incident described in the allegation was not an accurate depiction of the actual events that occurred.

## **MEETINGS**

The Board met once to conduct business during the fourth quarter of 2018. The meeting was held on September 13<sup>th</sup> 2018. The meeting was held at the Albany Community Development Agency, 200 Henry Johnson Blvd., Community Room (2<sup>nd</sup> Fl.), at 6:00 p.m. There was a public comment period at each meeting.

The Board meets on the second Thursday of every month so as not to conflict with the monthly meetings of the County Legislature, and to encourage media and public participation at its meetings.

## **CONCLUSION**

The Board had a productive fourth quarter, which included, member Veneilya Harden and the Coordinator of the CPRB, Clay Gustave, attended the NACOLE Conference. Additionally, the Board met as a whole once, reviewing 1 complaint and rendering findings for three allegations contained in that complaint. The Board also requested Albany's Police Department revisit a case, OPS closed. The Albany Citizens' Police Review Board continued to work collaboratively with the Albany Police Department, The City of Albany and the Community we serve.

Respectfully submitted,

Clay Gustave  
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