

# City of Albany

## Annual Report 2002

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**

Second 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

## BACKGROUND

In July 2000, legislation creating the City of Albany Citizens' Police Review Board (the "Board") was signed into law, adding a new 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; and 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 informed of actual police practices.

## 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 with respect to the new Board. Among the services to be provided, Section 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 second annual report so submitted covering the Board's operations from November 1, 2001 to October 31, 2002.

## ORGANIZATION OF THE BOARD

The Board is comprised of nine members, five appointed by the Common Council, and four appointed by the Mayor for three-year staggered terms. In selecting the members to 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.

In October 2000, the law took effect and nine residents of the City of Albany were sworn in as members of the Citizens' Police Review Board for the City of Albany. The following members constituted the Board during its second year of operation:

Dr. Manuel Alguero  
Term Expires 2004

Judith Mazza  
Term Expires 2003

Rev. Kenneth Cox  
Term Expires 2004

Herman Thomas  
Term Expires 2002

Dr. Morris Eson  
Term Expires 2002

Eleanor Thompson  
Term Expires 2002

Barbara Gaige  
Term Expires 2002

Paul Weafer, Esq.  
Term Expires 2003

Marilyn Hammond  
Term Expires 2003

Michael Whiteman, Esq.  
Term Expires 2003

### Resignations/Appointments/Reappointments

In December 2001, one of the original members of the Board, Dr. Morris Eson, submitted his letter of resignation to the Common Council and resigned from the Board effective March 1, 2002.

On March 4, 2002, a new member, Barbara Gaige, was appointed to the Board by the Common Council to assume the seat vacated by Dr. Eson. Under Section 42-335 of the legislation, Ms. Gaige was appointed to serve as a member of the Board for the remainder of Dr. Eson's unexpired term and would be eligible for reappointment in October 2002.

At the close of the Board's first year of operation, the terms of Dr. Manuel Alguero and Chairman Kenneth Cox had expired. In March 2002, Dr. Alguero was reappointed by the Mayor to serve a three-year term, which expires in October of 2004, and Chairman Cox was reappointed by the Common Council to serve a three year term, which also expires in October of 2004.

In October 2002, the terms of Barbara Gaige, Eleanor Thompson and Herman Thomas had expired. New appointments to the Board had not been made by the close of the Board's second year of operation. However, under Section 42-334(D) of the legislation, these members shall continue to serve until their successors have been appointed.

### Orientation

According to the legislation creating the Board, all members of the Board were prohibited from taking their seats as voting members until they completed an orientation program designed by the Government Law Center and approved by the Common Council. In 2002, Barbara Gaige, the Board's newest member, was required to complete this orientation program, which took place March 8-11, 2002 at Albany Law School. Among the topics and information addressed during orientation were: a review of the local law, the Board's by-laws, operating procedures, meeting minutes, quarterly reports, 2001 Annual Report, citizen complaint form, complaint review and mediation brochures, and Website information; the Office of Professional Standards' duties and responsibilities, and procedures for communicating with monitors/investigators; the Open

Meetings Law (OML); the Freedom of Information Law (FOIL); the Civil Rights Law Section 50-a; a report on racial profiling data collection systems; a report from the Center for Law and Justice; and a review of the structure, operation and responsibilities of police review boards from a national perspective.

On March 11, 2002, Ms. Gaige completed the Board's orientation program, and was sworn in by the Mayor as the ninth member of the Albany Citizens' Police Review Board.

### Officers

During its second year of operation, the Board's "regular officers" were:

Chair	Kenneth Cox
Vice-Chair	Herman Thomas
Secretary	Michael Whiteman

### Committees

The following Committees were operational and active in the Board's second year of operation, with each Board member serving on at least one committee:

Complaint Form	Manuel Alguero Kenneth Cox Morris Eson Eleanor Thompson Paul Weafer
Complaint Review	Manuel Alguero Barbara Gaige Marilyn Hammond Judith Mazza Herman Thomas Eleanor Thompson Paul Weafer Michael Whiteman
Operating Procedures	Marilyn Hammond Judith Mazza Paul Weafer Michael Whiteman
Public Education/ Community Outreach	Kenneth Cox Judith Mazza Herman Thomas

The Complaint Form, Complaint Review, Operating Procedures and Public Education/Community Outreach Committees were operational and active during the Board's first quarter of operation. The Complaint Review and Public Education/Community Outreach Committees were active during the second, third and fourth quarters of operation. While the Complaint Form Committee had been reorganized at the close of the Board's first year and became inactive, it became operational again in the first quarter of the second year for the limited purpose of disseminating the Spanish translated version of the Citizen Complaint Form via the Board's Website at [www2.als.edu/glc/cprb](http://www2.als.edu/glc/cprb). At the conclusion of Board's second year of operation, all committees remained operational, except for the Complaint Form Committee.

#### COMPLAINT FORM

Section 42-342 (A) of the legislation provides that "complaints . . . be lodged in writing using the City of Albany Police Department Citizen Complaint Form as approved by the [Board] for that purpose." The Complaint Form Committee was formed and became active in the Board's first year of operation for the purpose of reviewing and revising the complaint form used prior to the inception of the Board. By the close of the Board's first year, a revised complaint form and a cover letter explaining the form were approved by the Board and made available to the public in both English and Spanish. In January 2002, the Spanish version of the complaint form and accompanying cover letter were posted to the Board's Website.

#### OPERATING PROCEDURES

In December 2001, the Operating Procedures Committee proposed to amend the Board's operating procedures adopted on August 20, 2001. The proposal included re-lettering former Subdivision I to new Subdivision J and adding a new Subdivision I in Section II (Review of Complaints) of the procedures to provide for the creation of a Committee on Complaint Review. Under the new section, the committee would consist of five members, a chair and four committee members who would each be assigned to present one complaint to the Board at each of its monthly meetings. The amended procedures provide that the chair of the committee serve for a term of one year as a permanent committee member. The remaining four committee members would serve on a rotating basis with two of the four members being replaced at each monthly meeting of the Board.

At its December 3, 2001, the proposed amendment was submitted to the members of the Board for consideration. At the Board's January 14, 2002, the Board adopted the amendment and it took effect in February 2002.

## COMPLAINT REVIEW

In January 2002, the Committee on Complaint Review was formed and became active. Board Member Paul Weafer was appointed by Chairman Kenneth Cox to chair the committee, and Board Members Marilyn Hammond, Judith Mazza, Eleanor Thompson and Michael Whiteman were appointed as committee members.

Pursuant to the Board's Operating Procedures (Section II. Review of Complaints, Subsection I), each of the four appointed members of the Committee on Complaint Review, in addition to the chair of the committee, was responsible for presenting one complaint at each monthly meeting. During the Board's second quarter of operation, seventeen (17) complaints were presented and reviewed by the committee. The following Board members served on the committee for the second quarter:

February 2002	Marilyn Hammond, Judith Mazza, Eleanor Thompson, Paul Weafer, and Michael Whiteman.
March 2002	Manuel Alguero, Marilyn Hammond, Eleanor Thompson, Paul Weafer, and Michael Whiteman.
April 2002	Barbara Gaige, Herman Thomas, Eleanor Thompson, Paul Weafer, and Michael Whiteman.

In the third quarter, twenty-three (23) complaints were presented and reviewed by the committee. The following board members served on the committee for that quarter:

May 2002	Barbara Gaige, Judith Mazza, Herman Thomas, Eleanor Thompson, and Paul Weafer.
June 2002	Barbara Gaige, Judith Mazza, Herman Thomas, Eleanor Thompson, and Paul Weafer.
July 2002	Manuel Alguero, Marilyn Hammond, Barbara Gaige, Judith Mazza, and Paul Weafer.

In the final quarter of the Board's second year of operation, twenty (20) complaints were presented and reviewed by the committee. The following board members served on the committee for the fourth quarter:

August 2002	Manuel Alguero, Barbara Gaige, Judith Mazza, Herman Thomas and Paul Weafer.
September 23, 2002	Manuel Alguero, Barbara Gaige, Marilyn Hammond, Herman Thomas and Paul Weafer.

September 30,  
2002

Judith Mazza, Eleanor Thompson, Michael Whiteman and Paul Weafer.

October 2002

Manuel Alguero, Barbara Gaige, Judith Mazza, Paul Weafer and Michael Whiteman.

#### PUBLIC EDUCATION/COMMUNITY OUTREACH

The Public/Community Outreach Committee was active in the Board's second year of operation. In November 2002, during the first quarter, the committee coordinated a public education/community outreach meeting with the Personal Safety and Off-Campus Affairs Division of the State University of New York at Albany's Police Department. During the meeting, Board Member Marilyn Hammond gave a presentation about the Board and the complaint review process, responded to questions from meeting participants, and distributed copies of the Citizen Complaint Form, the Board's complaint review and mediation brochures and the legislation creating the Board. In addition, the Board's outreach liaisons met with the Police Commissioner, Mayor and reached out to the new union leadership during the quarter.

During the second quarter, the committee coordinated and participated in the following meetings and programs:

- In February 2002, Chairman Kenneth Cox and Board Members Judith Mazza and Eleanor Thompson met with the One Hundred Black Men of the Capital Region. At the meeting, Chairman Cox, Ms. Mazza and Ms. Thompson gave a presentation about the Board and the complaint review process, responded to questions from meeting participants, and distributed copies of the Citizen Complaint Form, the Board's complaint review and mediation brochures and the legislation creating the Board. During the meeting, there was some discussion about the coordination of a "town meeting" by the One Hundred Black Men that would provide a large, open and public forum for its constituencies to learn more about the Review Board and the complaint review process, and to discuss their concerns about policing in their communities.
- In March 2002, Board Members Manuel Alguero, Barbara Gaige and Michael Whiteman met with the Common Council. The meeting was coordinated by the Council's Public Safety Committee and included a discussion of the Board's progress since its inception, areas for improvement and the Board's First Annual Report.
- In April 2002, Board Member Manuel Alguero participated as a guest speaker and panelist at the Ninth Annual Capital District Community Conference on Criminal Justice hosted by the Center for Law and Justice. Dr. Alguero gave a presentation about the Albany Citizens' Police Review Board.

Additionally, in the second quarter, Chairman Cox and Board Members Herman Thomas and Paul Weafer participated in liaison meetings with the Mayor and the Commissioner of Public Safety to update them on the Board's activities.

In the third quarter of operation, the Public/Community Outreach Committee was invited by the Chairman of the Common Council's Public Safety Committee of the City of Schenectady to attend the public hearing on proposed legislation creating a new Schenectady Civilian Police Review Board. In May 2002, Chairman Kenneth Cox and Board Member Judith Mazza attended the meeting and were offered an opportunity to comment on the progress of the Albany Citizens' Police Review Board and on the proposed legislation in Schenectady.

In June 2002, Vice-Chairman Herman Thomas and Board Members Barbara Gaige and Eleanor Thompson, with the assistance of staff of the Government Law Center, facilitated a training program for members of the One Hundred Black Men of the Capital Region. During the session, Vice-Chairman Thomas, Ms. Gaige and Ms. Thompson instructed the training participants on how to assist complainants in filling out and filing a complaint; the type of information that should be included in the complaint; the complaint review process from the point in which it is received until the Board makes its finding; and how the Board's mediation program works. During the session, Board members addressed general questions about its first year of operation and distributed additional copies of the Citizen Complaint Form and the Board's brochures on the complaint review process and mediation program.

During the fourth quarter, committee member Judith Mazza met with GLC staff to discuss the Board's current and prospective public education/community outreach initiatives. Among the items discussed, a suggestion was made to draft articles about the Board, the complaint review process and the Board's mediation program for submission to the area newspapers and community organization newsletters; to coordinate outreach meetings with the community organizations to update the organizations on the Board's activities in its second year of operation; and to schedule regular liaison meetings with the Mayor, the Common Council, the Union leadership, and the rank and file of the Albany Police Department.

Throughout the second year of operation, the Public Education/Community Outreach Committee regularly distributed Citizen Complaint Forms and Board brochures to the public, community groups and organizations, and other interested parties who sought copies of these forms and materials. In addition, the committee updated the Board's Website, adding new information about Board meetings, reports, news and events and expanded its mailing list.

## REPORTS

On January 14, 2002, the Board adopted its First Annual Report drafted by the Government Law Center. A copy of the report was submitted to the Mayor, the

Common Council and the Chief (Commissioner) of Police as required by Section 42-340(C) of the legislation. Additional copies were forwarded to members of the public, community groups and organizations and other interested parties on the Board's mailing list.

Michael Whiteman prepared and submitted a report to the Board summarizing his experiences at the National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference that he and board member Eleanor Thompson attended in Denver, Colorado in October of 2002. The report contained reference materials from the conference and included the following recommendations: one member of the Board be designated a regular member of NACOLE on a continuing basis; other members of the Board be as active with their associate memberships as time and interest permits; and the City send members of the police department and the Office of Professional Standards to future NACOLE meetings.

Four quarterly reports were submitted as required by Section 42-340 (C) of the legislation detailing the activities of the Board and the Government Law Center during each time period covered.

#### MEETINGS OF THE BOARD

The Board met as a whole three times for the conduct of business during the first quarter. All three meetings were held at the Albany Public Library on Washington Avenue. Meetings were held on November 5, 2001, December 3, 2001, and January 14, 2002.

At its November 5, 2001 meeting, the Board voted to change its monthly meetings from the first to the second Monday of every month so as not to conflict with the monthly meetings of the Common Council, and to encourage media participation at Board meetings. The official meeting time was set at 7:00 p.m. The Board decided that meetings would continue to be held at the Albany Public Library when space is available. The Board agreed that the Community Room at 200 Henry Johnson Boulevard would be the alternate meeting location.

During the second quarter, the Board met as a whole three times for the conduct of business. All three meetings were held at the Albany Public Library on Washington Avenue. Meetings were held on February 11, 2002, March 11, 2002, and April 8, 2002.

The Board met as a whole three times for the conduct of business during the third quarter. Two of the three meetings were held at the Albany Public Library on Washington Avenue. The third meeting was held in the Community Room of 200 Henry Johnson Boulevard. Meetings were held on May 13, 2002, June 10, 2002, and July 8, 2002. In the third quarter, the Board moved up its official meeting time from 7:00 p.m. to 6:00 p.m. through the end of 2002.

During the fourth quarter, the Board met as a whole four times for the conduct of business. However, business was not conducted at the August 12<sup>th</sup> meeting because a quorum of the Board was not present. Three of the four meetings were held at the Albany Public Library on Washington Avenue. The fourth meeting was held in the UHA Boardroom (Room 300) at Albany Law School due to the unavailability of the Board's alternate meeting location. Meetings were held on August 12, 2002, September 23, 2002, September 30, 2002 and October 7, 2002.

A public comment period was held at each meeting, and the meetings largely consisted of a discussion of committee work and the review of complaints.

## TRAINING

The law creating the Board requires, among other things, that Board members graduate from the Police Department's Citizens' Police Academy within six months of the start of the member's term (Section 42-339). In the second and third quarters, the Board's newest member, Barbara Gaige, completed and graduated from the Police Department's Thirteen Week Citizen Training Academy. In addition to the time spent in the classroom, Ms. Gaige completed the required ride-alongs with members of the Police Department.

Section 42-339 of the law also requires that "the Government Law Center . . . provide, to [Board] members, and the members shall undergo continuing education on issues related to the interaction between civilians and police officers . . ." During the first quarter, the Board attended and participated in the following training programs:

- November 26, 2001 - a two-hour alternative dispute resolution training session facilitated by the Government Law Center and Board Mediation Program Coordinator, Karleen Karlson, Esq. designed to address mediation and conflict management in the context of the complaint review process and the dynamics of the Board.
- December 3, 2001 - "Revisiting the Law," a two-hour training refresher on Chapter 42, Part 33 of the Albany City Code facilitated by the staff of the Government Law Center.
- January 9, 2002 - "Effective Public Education and Public Relations," a three-hour media training session conducted by national media trainer Margie Elsberg, which addressed techniques on how to be effective in educating the public and the media about the work of the Board.

In February 2002, at the start of the second quarter, Board Members Manuel Alguero and Eleanor Thompson attended, "Emotional Survival for Law Enforcement," presented by Dr. Kevin Gilmartin, national trainer and police psychologist. The program was sponsored by the Albany Police Department.

During the third quarter, the Board participated in a training program for its investigators/monitors devoted to developing a monitoring process. The training session,

which was coordinated and facilitated by the GLC staff and the Office of Professional Standards, included a discussion of the CPRB monitoring process, OPS' s practices and

procedures for briefing and communicating with monitors and monitor reporting.

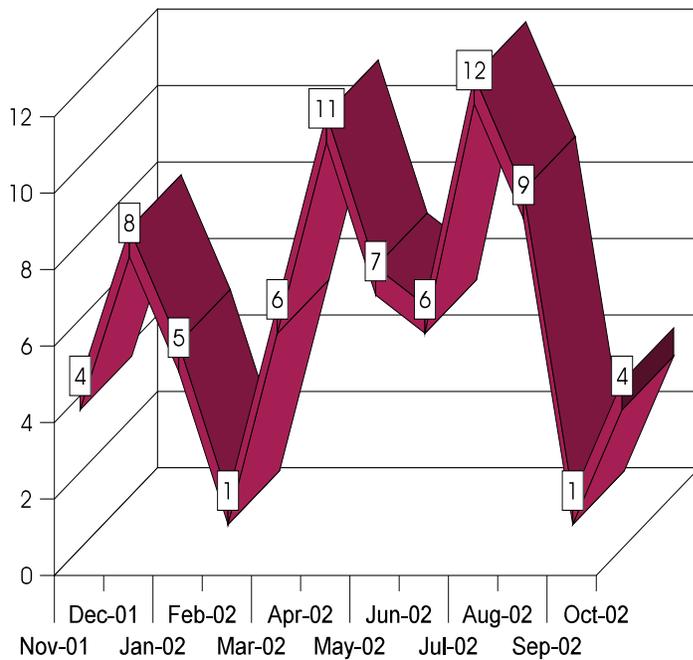


Figure 1: Monthly Breakdown of Complaints Filed- Total 75

At the close of the third quarter and start of the fourth quarter of its second year of operation, the Board requested that training be suspended for the months of June, July and August. While training was expected to resume in September 2002, it was postponed until October 2002. From October 31 through November 3, 2002 eight members of the Board are scheduled to attend a three-day conference sponsored by the National Association for Civilian Oversight of Law Enforcement (NACOLE) in Cambridge, Massachusetts entitled "The Value

of Civilian Oversight - Dollars and Sense" at the end of the fourth quarter.

At the close of the second year, the Board requested its training sessions to be conducted on a bimonthly basis. Tentative Training sessions for the third year include: an OML/FOIL refresher, a program on collective bargaining/labor law and police unions; and a racial profiling program.

#### COMPLAINT REVIEW: SUMMARIES AND STATISTICS

On September 24, 2001 and October 10, 2001 respectively, the Board received correspondence from the Mayor of the City of Albany suspending the Board's review of three complaints pursuant to authority granted to him by Section 42-248 of the legislation creating the Board, which reads, in pertinent part, that "upon the written recommendation of the Corporation Counsel . . . 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."

#### Number of Complaints Filed

During its second year of operation (November 1, 2001 to October 31, 2002), the Board received a total of seventy-five (75) complaints, two (2) of which were filed by the same complainant, but were treated and reported as a single complaint. (See Figure 1).

Except for the months of February and September 2002, the Board received, at minimum, four (4) complaints per month from November 2001 to October 2002. These complaints included those filed with the Board directly (filed either in person or by regular U.S. mail) and those filed with the Board through the Office of Professional Standards.

### Appointment of Monitors

Under Section 42-343 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." In the first year, there was a great deal of attention given to the issue of appointing monitors and much discussion was had between the Board and the public regarding legislative interpretation. Ultimately, it was determined that the Board had the sole discretion to determine whether or not a complaint contained the requisite allegations to warrant a monitor. Of the seventy-five (75) complaints filed, the Board appointed a monitor to observe OPS's investigation of thirty-nine (39) complaints.

### Allegations Contained in the Complaints

In the second year, twenty-two (22) of the seventy-five (75) complaints filed with the Board contained a single allegation of misconduct against an officer or officers of the Police Department of the City of Albany. Fifty-two (52) complaints contained multiple allegations, with a majority of these complaints averaging two allegations. Figure 2 illustrates the types of allegations made in the seventy-five (75) complaints filed with the Board. Given that slightly more than two thirds (2/3) of these complaints contained more than one allegation, the total number of allegations received over the course of the second year is not equal to the number of complaints filed with the Board.

One hundred fifty-five (155) allegations were made in the seventy-five (75) complaints filed with the Board in the second year. Of the one hundred fifty-five (155), the Board identified thirty-six (36) categories of allegations, including an "unknown" classification. In identifying these categories of allegations, the Board accounted for the complainant's own classification of the allegations contained in his or her complaint.

Eighteen percent (18%) of the allegations identified in the complaints filed with the Board were classified as "use of force." Of the force allegations, more than two thirds (2/3) were identified as "excessive force." The remaining force allegations were classified as "unnecessary force" or as "force." Unprofessional conduct and rudeness accounted for slightly less than one quarter (1/4) of the misconduct alleged, while less than five percent (5%) of the allegations involved some form of harassment. The use of offensive or derogatory language, including the use of profanity, racial slurs or comments interpreted as religious bigotry accounted for approximately six percent (6%) of the misconduct alleged.

Figure 2: Types of Allegations Contained in Complaints Filed - Total 155

Abuse of Authority	5
Illegal/False/Wrongful/Warrantless/Improper/Racially-Motivated Arrest	9
Confirmation of Disposition/Discipline	2
Dangerous/Improper Use of a Gun	2
Denied/Forced Medical Treatment	2
Failure to Properly Report Reason for Traffic Stop	1
Failure to Respond to Previous Complaint	1
Failure to Return Driver's License	1
Failure to Return Personal Property	2
Failure to Engage Emergency Equipment Causing Collision	1
False Arrest Report	1
Harassment	7
Improper Seizure	1
Improper Stop	3
Improper Issuance of a Citation	2
Improper Tow	1
Improper/Unlawful Conduct by Off-Duty Police Officer	3
Improper/Unlawful Search	7
Malicious Prosecution	1
Manufactured Evidence	1
Neglect of Official Duties	8
Racially-biased Behavior/Conduct	2
Reimbursement	1
Rudeness	14
Sexual Assault	1
Threatened Physical Force	1
Threatened into Making Confession	1
Racially-Motivated/Unjustified Traffic Stop	3
Undue Delay in Furnishing Accident Report	1
Unjustifiable Withholding of Driver's License	1
Unknown	1
Unlawful/Forced Entry into Private Residence	4
Unlawful/Illegal/Improper Detention	3
Unprofessional Conduct	23
Use of Force	28
Use of Offensive/Derogatory Language	10

More than eight percent (8%) of the allegations made in year two were classified as abuse of authority or neglect of official duties. Allegations involving an abuse of authority involved circumstances in which the officer(s) threatened the complainant with arrest; engaged in retaliation as the result of a previous dispute with the complainant; and caused the complainant to receive a ticket for an incident on the road. Allegations involving the neglect of official duties included circumstances in which the officer(s) failed to take statements at the scene of an accident; failed to investigate a complaint; and failed to follow proper police procedure.

Twelve percent (12%) of the allegations made were classified as stops, detentions and arrests, while only eight of the 155 allegations made were classified as searches and seizures. Stops included both improper pedestrian stops and traffic stops that were either racially-motivated or unjustified. Detentions were identified as either illegal, unlawful or improper while arrests included illegal, false, wrongful, improper, warrantless and racially-motivated arrests. Searches included: vehicle, patdown and strip searches and the seizure allegation involved forfeiture of the complainant's vehicle. Four (4) complaints contained allegations of unlawful or forced entry into a private residence.

Many of the remaining allegations, while they could have fallen under broader categories, were reported as allegations of a specific type of conduct or behavior, which, more often than not, was narrowly tailored to the complaint in which it was contained. Therefore, several of the types of allegations identified were only made by one complainant in a single complaint.

Race/Ethnicity and Gender of the Complainant and Officer(s)

Of the seventy-five (75) complaints filed in the second year, forty-five (45) contained information regarding the complainant's race/ethnicity and gender. Those forty-five complaints were comprised of: thirteen (13) African-American males; twelve (12) African-American females; ten (10) Caucasian males; six (6) Caucasian females; one (1) Indian male; one (1) African-American/Indian female; one (1) Hispanic female; and one (1) bi-racial male. (See Figure 3). The complainants that identified themselves as bi-racial and African-American/Indian were reported in Figure 3 as "Other."

While four (4) complainants provided information about their gender (2 males and 2 females), they did not provide any information about their race/ethnicity. Twenty-one (21) complainants chose not to submit this information. Five (5) complainants who did report this information filed at least one

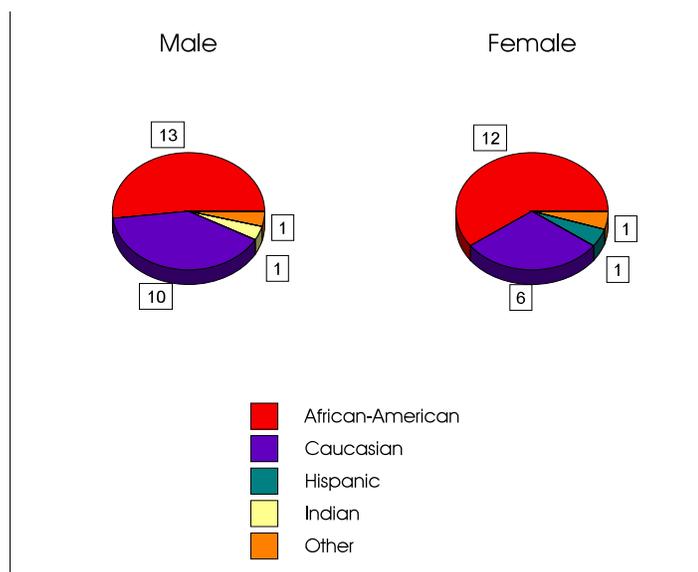


Figure 3: Race/Ethnicity and Gender of the Complainant

additional complaint this year, one of which filed a third complaint. Information for those five complainants was reported once.

The Citizens' Complaint Form provides a section for a complainant to enter descriptive information about the officer or officers who are the subject of his or her complaint. In this section, the complainant is to provide race/ethnicity and gender information about the officer(s), if known. Fifty-six (56) of the seventy-five (75) complaints received by the Board contained this information, but the information was redacted by the Office of Professional Standards (OPS). Five (5) additional complaints contained this information, but were un-redacted. Those five (5) complaints identified: two (2) Caucasian male officers; two (2) male officers and one (1) white officer. The remaining complaints did not include either this information, the information was unknown or the information was not applicable.

### Board and Police Department Findings

Under Section 42-343 (D) of the legislation, after conclusion of the investigation by the OPS, the Police Department is required to make a preliminary report of its findings to the Board. Thereafter, Section 42-344 of the legislation, provides that "the [Board], after review and deliberation of an investigation, shall by majority vote, make . . . findings on the case." In addition, Section 42-345 of the legislation requires the Chief of Police to "review the Department's preliminary report in light of the [Board's] finding and then make the Department's final determination."

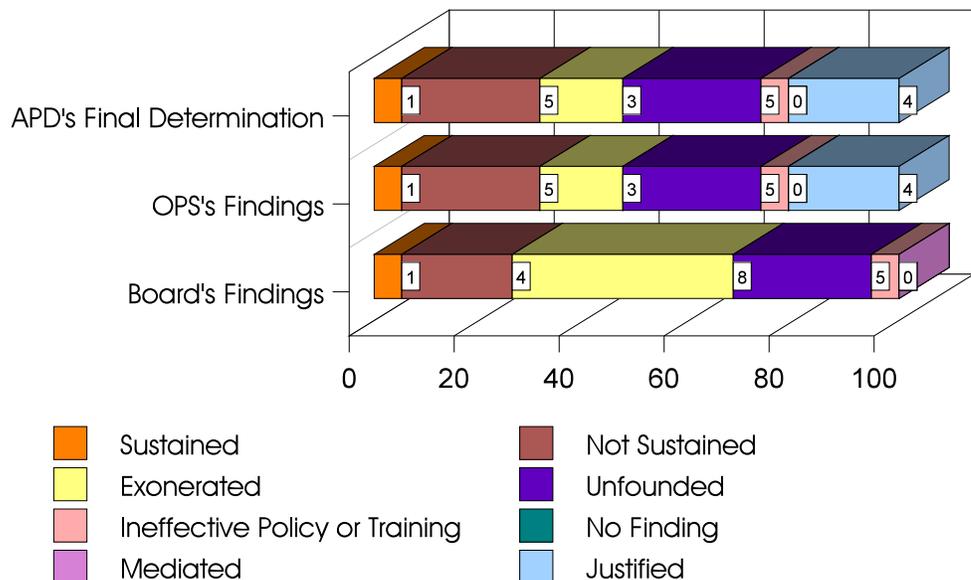
#### *2000-2001*

At the conclusion of the first year of operation, findings had not yet been made with respect to seventeen (17) complaints filed with the Board. These complaints were not reported in the Board's First Annual Report and were, therefore, carried forward into the second year.

In the second year, the Board reviewed and rendered findings for the allegations contained in eleven (11) of the seventeen (17) complaints from the first year.

Figure 4 illustrates a comparison of the findings made by the Board and the findings made by the Police Department, including the preliminary findings of the Office of

Figure 4: Comparison of Findings Made by the Board and the Police Department (2000-2001)



Professional Standards (OPS) and the department's final determination.

As to those complaints carried forward from the first year and reviewed in the second year, the Board made findings consistent with the police department with respect to all but four (4) complaints. With respect to three of the four complaints, the Board made findings of "exonerated" as to the misconduct alleged, including: entry into a private residence without consent; unnecessary use of force; improper issuance of citations; and improper stop. The department, however, rendered findings of "justified."

As to the fourth complaint, the Board made a finding "not sustained" as to complainant's allegation that an officer placed complainant in a headlock, and "exonerated" as to the complainant's allegation that an officer sprayed him with "mace." The department rendered a finding of "not sustained" as to both allegations.

### 2001-2002

In the Board's second year of operation, the Board reviewed forty-four (44) of its seventy-five (75) active complaints. Of the forty-four (44) complaints reviewed, which included, in appropriate cases, review of monitor reports, presentations made by monitors, questioning of detectives from OPS and review of transcripts and other information contained in the complaint file, the Board rendered findings for the allegations made in twenty-six (26) complaints.

Figure 5 depicts a comparison of the findings made by the Board and the findings made by the Police Department, including the preliminary findings of the Office of Professional Standards (OPS) and the department's final determinations.

In the second year, the Board made findings consistent with the preliminary findings

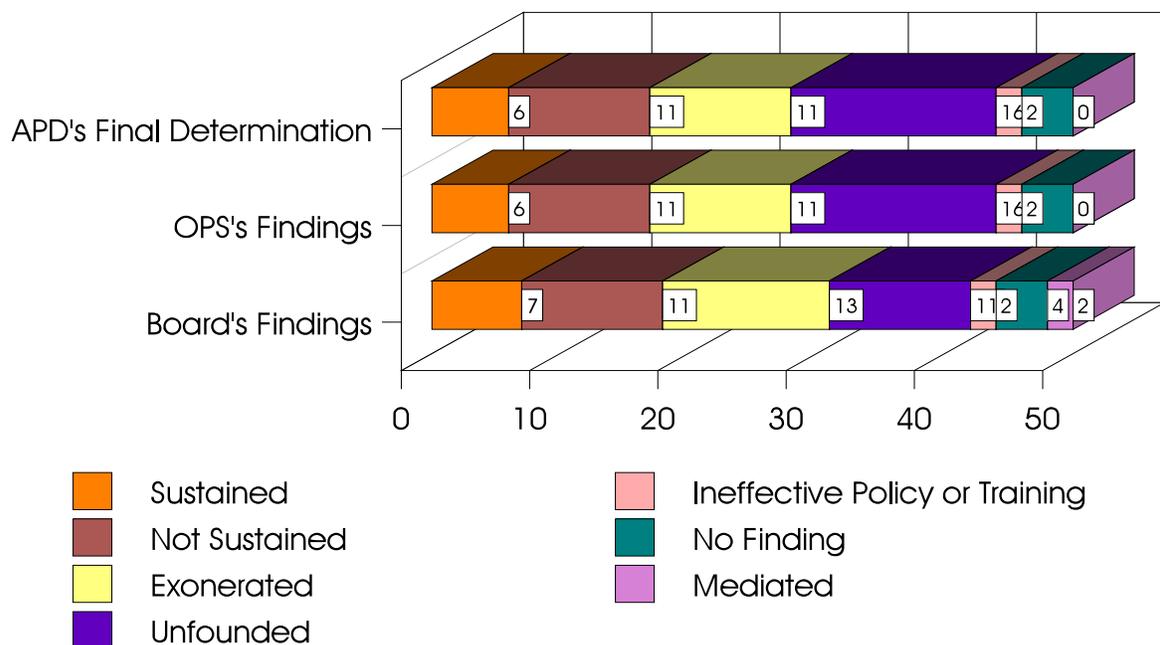


Figure 5: Comparison of Findings Made by the Board and the Police Department (2001-2002)

of OPS in all but five (5) circumstances. As to the first complaint, the complainant made three (3) allegations: 1) illegal/false arrest; 2) falsified police reports; and 3) illegal detention. The Board made a finding of "exonerated" as to all three allegations made in this complaint. The police department rendered a finding of "exonerated" for the illegal/false arrest allegation and the falsified police report allegation, but made a finding of "unfounded" as to the illegal detention allegation.

As to the second complaint, the Board rendered a finding of "mediated" as to both allegations in the complaint (unnecessary use of force and unlawful detention and search). The police department, however, did not make a preliminary finding or final determination for that complaint since the complaint was resolved through the Board's mediation program and not through the complaint review process, which would have resulted in a formal investigation by OPS and a preliminary finding as to that investigation.

As to the third complaint, the Board disagreed with the department as to the complainant's allegation that an officer engaged in improper conduct while off-duty. As to that allegation, the Board made a finding of "sustained," while the department rendered a finding "not sustained." In that case, the complainant also alleged that the same officer engaged in unlawful behavior - the complainant claimed the officer broke his store window. Although this allegation was not addressed by the department, the Board rendered a finding of "not sustained."

With respect to the fourth complaint, the complainant alleged: 1) excessive use of force; 2) denial of requested medical attention; and 3) use of derogatory language. Both the Board and the department made findings of "exonerated" as to excessive use of force and denial of requested medical attention allegations. However, the department did not render a finding for the derogatory language allegation, which the Board also found "exonerated."

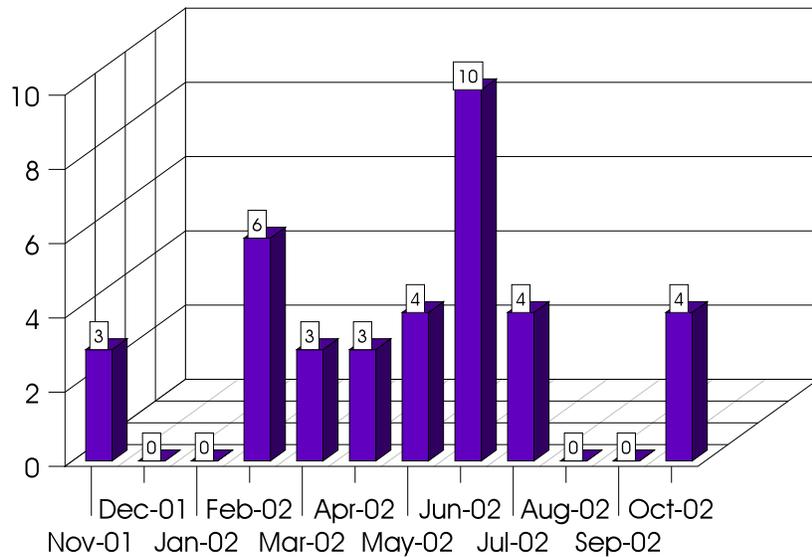
Finally, the department rendered a preliminary and final determination of "unfounded" as to each allegation contained in the fifth complaint. The allegations included: 1) unlawful entry into a private residence; 2) use of force; 3) false arrest; and 4) malicious prosecution. However, the Board voted not to accept and review the complaint pursuant to its authority under Section 42-342(C) of the legislation. Under that section, "complaints [must] be filed "within six months of the date of the incident giving rise to the complaint." Where a complaint has been filed after six months of the alleged misconduct, the Board *may* accept and review the complaint upon a majority vote of its members to do so. In this case, the Board voted unanimously not to accept and review the complaint.

### Complaints Reviewed and Closed

At the conclusion of its second year in October 2002, the Board had reviewed, made findings for and closed a total of thirty-seven (37) complaints. Of the thirty-seven (37) complaints reviewed and closed, twenty-six (26) complaints were filed, reviewed and closed in the second year and eleven (11) were filed in the first year, but reviewed and closed as carry overs in the second year. Figure 6 illustrates the monthly comparison of complaints reviewed by the Board and closed between November 1, 2001 and

October 31, 2002, with a majority of action being taken from February 2002 through July 2002.

In the second year, the Board closed five complaints (5) through means other than formal complaint review or mediation. Of the five (5) complaints, three (3) were filed and closed in the second year and two (2) were filed in the first year, but were carried forward and closed in the second year. The Board voted not to accept and review two (2) of the three (3) second year and one (1) of the first year complaints pursuant to its authority under Section 42-342(C) of the legislation.



The third complaint filed in the second year involved an inquiry relating to a complaint filed, reviewed and closed by the Board's predecessor. In that case, the Office of Professional Standards did not conduct a new investigation since the complaint did not contain new allegations, but rather sought verification that there was a disposition of the previously filed complaint, confirmation that discipline was imposed, and reimbursement for a cleaning bill expense. Given those circumstances, the Board responded to the inquiry based upon information provided by OPS and closed the complaint through correspondence.

With respect to the second complaint filed in the first year, the Board voted unanimously to refer the complaint to the Board's mediation program. After several unsuccessful attempts to contact the complainant to schedule the mediation, the Board closed the complaint without prejudice, giving the complainant an opportunity to reopen the complaint by contacting the Board. By the close of the second year, the complainant had not made an effort to contact the Board to reopen this complaint.

### Further Investigation

Under Section 42-343(F)(2), the Board may "request that Professional Standards conduct further investigation of the complaint" after its "review and deliberation of the preliminary report of the Department's finding." In the second year, the Board returned six (6) complaints to the Office of Professional Standards for further investigation. Further investigations requested included investigation of allegations relating to: a vehicle search; a patdown search; two (2) traffic stops; the status of a complainant's license to operate a vehicle; the use of a gun; and a warrantless search of a private residence.

## Mediation

Section 42-346 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.” During the Board’s second year of operation, seven (7) complaints filed with the Board were referred to the Board’s mediation program. One (1) referral was made by the Board, although it had made findings on the complaint consistent with the Office of Professional Standards. In that case, the department did not approve the complaint for mediation. One (1) complaint was referred to mediation by the City of Albany’s Commissioner of Public Safety John C. Nielsen, and agreed to by the parties. A mediation agreement was reached and the complaint was closed as “mediated.”

Two (2) complaints were referred to the Board’s mediation program for “informal” mediations. One complaint involved an allegation that the department improperly disclosed the identity of the complainant to the media. In that case, the complainant had been serving as a confidential informant. The second complaint involved harassment of the complainant’s minor son. In both cases, Commissioner Nielsen and/or Commander Anthony Bruno agreed to participate in the “informal” mediations. At the close of the second year, meetings had been held with respect to the first complaint referred to the “informal” mediation process, but not with respect to the second complaint.

By the close of the second year, no agreements had been reached or findings made, indicating that the five (5) outstanding complaints had been “mediated.”

### OTHER BOARD ACTIONS/REQUESTS/RECOMMENDATIONS

At the close of the first year, the Board recommended that the Albany Police Department implement a policy aimed at eliminating police department action in retrieving rental property involved in a landlord-tenant dispute, and that officer(s) be trained with respect to this policy. This recommendation was in response to a complaint filed with the Board, which alleged, in part, that police officer(s) entered the complainant’s home without a search warrant to retrieve property for the complainant’s tenant who had owed the complainant back rent, arrested the complainant and charged him with petit larceny for refusing to turn over the tenant’s property. In December 2001, the Board memorialized its recommendation in a letter to Commissioner John C. Nielsen. The Board received correspondence from Commander Anthony Bruno in January of 2002, in response to this letter, notifying the Board that the Albany Police Department was in the process of reviewing department policies and procedures, as well as the New York State Penal Law, Criminal Procedure Law, Civil Law and case law with respect to the Board’s recommendation. In May of 2002, in a memorandum from the Office of Professional Standards, Commander Bruno reported that his office had conducted a review, and had recommended training during shift calls and the production of a form that outlines, among other things, landlord/tenant rights and responsibilities to be given to a landlord and tenant in a dispute.

In response to a complaint filed in its first year of operation, the Board adopted Resolution No. 1 of 2001 against bias-based policing and racial profiling in the City of Albany. In May of 2002, Commissioner Nielsen, in correspondence to the Government

Law Center, reported that Commander Paula Breen of the Albany Police Department had done extensive research and training on this issue.

At its October 2001 meeting, the Board recommended that a policy be implemented and training be given to officers regarding contact with plaintiffs who have lawsuits or claims against a police officer or the City. In his letter of May 2002, Commissioner Nielsen responded that such actions are neither condoned by the Albany Police Department nor will they be tolerated. The Commissioner added that he had spoken with Commander Bruno about this issue and anticipated the Commander's response as to whether this issue needs to be addressed.

At the Board's February 2002 meeting and in a letter to Commissioner Nielsen in March of 2002, the Board recommended that a firm policy be implemented by the police department regarding strip searches and requested that the Board be informed of such policy and notified of when it takes effect. This review was recommended by the Board after reviewing a complaint in which the complainant alleged that he was strip searched after being arrested for petit larceny arising from a landlord/tenant dispute and a complaint in which the complainant alleged that he was strip searched in view of a video camera. At the Board's July 2002 meeting, Commander Bruno reported that his office is in the process of researching the strip search policies of other jails in the area and has been in contact with the Commissioner of Corrections in an effort to review the Commission's recommendations for strip searches in City lockups. A draft of a strip search policy was expected to be completed and forwarded to the Commissioner of Public Safety in August 2002. At the close of the second year, the Board had not yet been notified of whether the policy was completed, adopted and placed into effect.

In April 2002, the Board received a request from a complainant for a non-confidential copy of the police department's Standard Operating Procedures (SOP). In July 2002, after consulting with Commander Paula Breen, the Board recommended, in writing, that the complainant contact the City Clerk to obtain a non-confidential copy of the SOP. The Board agreed to forward a request to the department, asking that a non-confidential copy of the SOP be placed in the library at Albany Law School.

In May 2002, the Board forwarded a request for reimbursement on behalf of a complainant to the Corporation Counsel. The complainant was seeking reimbursement in the amount of \$14.00 for a dry-cleaning bill.

#### GOVERNMENT LAW CENTER

Prior to the enactment of legislation in July 2000, the Government Law Center was retained by the City of Albany to provide a number of support services to the then newly created Citizens' Police Review Board. In addition to those services required under the law, a team of three attorneys, three support staff and two law students work collaboratively to organize, and facilitate the Board's ongoing training program, coordinate the Board's public education/community outreach campaign and initiatives, provide staff support in preparation of, during and following each of the Board's monthly meetings, handle all administrative matters relating to the complaint review process and assist the Board in its day-to-day operations. These services are discussed in detail below.

## First Quarter

During the Board's first quarter of its second year of operation, the Government Law Center engaged in the following activities as directed by the local law and pursuant to its contractual obligations with the City of Albany during the first quarter:

- Held two meetings for the public to comment on the Board's first year of operation. During both meetings, members of the public were provided an opportunity to provide verbal and/or written remarks to the Center for inclusion in the Center's first year assessment of the CPRB.
- Drafted the Board's 2001 Annual Report, forwarded the draft to the Board for its comment and approval, and submitted the approved report to the Mayor, the Common Council and the Chief (Commissioner) of Police.
- Received and reviewed SUNY Albany's School of Criminal Justice/Hindelang Criminal Justice Research Center's preliminary report concerning complainant satisfaction with the complaint review process submitted in November of 2001 and January 2002.
- At the Board's request, assisted Dr. Alguero in finalizing the Spanish version of the complaint form; distributed copies of the form to complainants, the Police Department, each branch of the Albany Public Library, community groups and organizations that have agreed to distribute the form and/or assist in filling out and filing a complaint, and any other interested parties; and posted the form to the Board's Web site at: <http://www2.als.edu/glc/cprb>.
- Notified the Board of the resignation of Monitor Linda M. Davis, Esq., whose resignation was prompted by her relocation outside of the state.

## Second Quarter

The Government Law Center engaged in the following activities in the second quarter:

- Attended a two-day training program (February 13-14, 2002) on Early Warning Systems conducted by the Tampa Bay Police Department's Internal Affairs. The training included a presentation by Dr. Kevin Gilmartin, national trainer and police psychologist, entitled "Emotional Survival of Law Enforcement."
- Updated the Board's orientation training program and materials, coordinated and conducted orientation training of the Board's newest member, Barbara Gaige, March 8-11, 2002.
- Provided staff support during liaison meetings with the Mayor, the Commissioner, and the Office of Professional Standards.
- Notified the Board of the resignation of Bruce A. Androphy, Esq., whose resignation was prompted by a promotion and increased employment responsibilities.

### Third Quarter

During the third quarter, the Government Law Center engaged in the following activities:

- Coordinated and facilitated notice, scheduling and initial communications with complainants, Commander Bruno and Commissioner Nielsen for three complaints referred to the Board's Mediation Coordinator for mediation or "informal" meetings.
- Drafted and submitted a "First Year Assessment of the Albany Citizens' Police Review Board" on May 6, 2002, to the Mayor, the Common Council and the Commissioner of Public Safety.
- Participated in a meeting with Chairman Cox, Paul Weafer, the Mayor and the *Times Union* Editorial Board to discuss the release of the Center's assessment.
- Interviewed four prospective Board monitors/investigators.
- Assisted Commander Breen and the Board in providing comments for the Albany Police Department's nomination of the CPRB for the Webb Seavey Award given by the International Association of Police Chiefs.
- Assisted the Mayor's office in preparing and submitting an application nominating the CPRB for the Harvard Innovations Award.
- Provided staff support during liaison meetings with the Commissioner.

### Fourth Quarter

The Government Law Center engaged in the following activities during the fourth quarter:

- Coordinated and facilitated notice, scheduling and initial communications with complainants, police officers, Commander Anthony Bruno and Commissioner John Nielsen for five new complaints, in addition to the previous three complaints, referred to the Board's Mediation Coordinator for mediation or "informal" mediation.
- Met with Assistant Corporation Counsel in September 2002 to discuss outstanding complaints and cases referred to mediation.
- Participated in a meeting with the Deputy Mayor, Deputy Corporation Counsel and the Commissioner in September 2002 to discuss a proposal for funding the CPRB's attendance at the Annual Conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE); a proposal for funding a part-time graduate student to assist the Government Law Center in providing administrative support to the Board; and the GLC's recommendation for the appointment of two new Board monitors.

- Met with a member of the Board's Community Education/Outreach Committee, Judith Mazza, to discuss the Board's public outreach/education initiatives.
- Conducted follow-up scheduling of liaison meetings with the Mayor and the Commissioner; began coordinating meetings with community organizations; forwarded the CPRB brochure to Ms. Mazza for revisions; drafted a new Board brochure for complainant's about what to expect at a CPRB meeting; and updated the CPRB Web site.
- Forwarded correspondence on the Board's behalf to the Mayor and the Common Council regarding the expiration of the terms of Barbara Gaige, Herman Thomas and Eleanor Thompson, and their reappointment to the Board.

Over the course of the Board's second year, the Government Law Center also performed the following administrative tasks:

- Arranged logistics for and coordinated regular monthly meetings, including: securing dates, times and locations for each meeting and providing notice to the affected parties and to the public;
- Prepared and assembled monthly meeting packets for Board members, including: photocopying complaints, reports and accompanying documents for review;
- Reported all activities related to Board business at each monthly meeting;
- Transcribed the minutes of each monthly meeting;
- Notified affected parties of Board findings, recommendations and requests following each monthly meeting;
- Arranged logistics for and coordinated outreach meetings and training sessions, including, securing dates, times and locations for each meeting and session, identifying and inviting meeting and session participants and preparing materials;
- Attended regular monthly meetings, outreach meetings and training sessions;
- Provided content for, updated and maintained the Board's website;
- Conducted a monthly accounting and inventory of complaints filed with the Board, including a summary of active and closed complaints, recommendations and pending requests submitted to the Commissioner of Public Safety and the Office of Professional Standards;
- Reported monthly complaint accounting and inventory to the Board at each of its regular monthly meetings;
- Assisted with typing and forwarding the Board's requests and recommendations to the Commissioner of Public Safety and the Office of Professional Standards;

- Conducted daily file accounting and inventory;
- Received and logged in complaints;
- Opened and closed complaint files;
- Maintained regular communications with Board members; *and*
- Answered inquiries from the community about the CPRB and the complaint review process.

## CONCLUSION

The Board maintained a very active second year of operation. During the first quarter, the Board finalized, distributed and posted to the Web site the Spanish version of the complaint form; continued its review of complaints; participated in ongoing training by attending mediation and media training as well as receiving a refresher on Chapter 42, Part 33 of the City Code; maintained its ongoing program of public education/community outreach by meeting with SUNY Albany's Personal Safety and Off-Campus Affairs Division of the University Police Department, meeting with the Mayor and the Police Commissioner; reaching out to the new Union leadership; and holding public meetings.

In the second quarter, the Board experienced a transition with the resignation of Dr. Morris Eson and the appointment of new member Barbara Gaige. During that quarter, the Board reviewed nearly half of its active complaints; participated in two community outreach/education meetings with the One Hundred Black Men of the Capital Region and the Public Safety Committee of the Albany Common Council, met with the Mayor, the Police Commissioner and Commander Paula Breen from the Office of Professional Standards; and held its monthly public meetings.

The third and fourth quarters were devoted primarily to complaint review and public education/community outreach. During both quarters, the Board reviewed nearly half of its active complaints; participated in a community outreach/training meeting with the One Hundred Black Men of the Capital Region and met with the Commissioner. The Board held a meeting to discuss developing new initiatives for its public education/community outreach program and attended and participated in a training session devoted to developing the Board's monitoring process. The Board also held regular public meetings and one additional public meeting to address a backlog of complaints filed during the summer months.

While the Board had a very active second year, it continues to experience a learning curve in the work that it is doing and the progress it hopes to make in the coming year.

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