

# City of Albany

## Quarterly Report August 1, 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

Quarterly Report of the City of Albany  
Citizens' Police Review Board

August 1, 2002

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 the law requires that the Government Law Center of Albany Law School submit quarterly reports containing "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 third quarterly report so submitted in the year 2002.

## INTRODUCTION

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

## ORGANIZATION OF THE BOARD

The following members constituted the Board during the third quarter:

Dr. Manuel Alguero  
Rev. Kenneth Cox  
Barbara Gaige  
Marilyn Hammond  
Judith Mazza  
Herman Thomas  
Eleanor Thompson  
Paul Weafer, Esq.  
Michael Whiteman, Esq.

The Board's permanently elected officers are:

Chair	Kenneth Cox
Vice-Chair	Herman Thomas
Secretary	Michael Whiteman

The following committees were operational during the third quarter, with each Board member serving on at least one committee:

Complaint Review	Manuel Alguero Barbara Gaige Marilyn Hammond Judith Mazza Herman Thomas Eleanor Thompson Paul Weafer Michael Whiteman
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Outreach/Education            Kenneth Cox  
   Judith Mazza  
   Herman Thomas

Both committees were active this quarter. In general, the following has been accomplished during the third quarter:

- 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. Twenty-three (23) complaints were presented and reviewed during the third quarter and the following Board members served on the committee:

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

- The Public Outreach Committee coordinated one public outreach/education meeting this quarter.
  - ▶ On May 28, 2002, Chairman Kenneth Cox and Judith Mazza, at the invitation of the Chairman of the Schenectady City Council's Public Safety Committee, Frank Maurizio, attended the public hearing on the proposed legislation creating a new Schenectady Civilian Police Review Board and were invited to comment on the Albany Board's progress and Schenectady's proposed legislation.
  - ▶ On June 17, 2002, Vice-Chairman Herman Thomas, Barbara Gaige and Eleanor Thompson participated in an outreach/training program with staff and members of the One Hundred Black Men of the Capital Region. At the meeting, Vice Chairman Thomas, Ms. Gaige and Ms. Thompson gave a presentation about filling out and filing the Citizen Complaint Form, responded to questions from the participants (including how to assist complainants in filling out a complaint; the types of information that should be provided to complainants filing a complaint; how the Board's mediation program works; and general questions about the Board's first year of operation) and distributed copies of the Citizen Complaint Form

and the Board's brochures on the complaint review process and mediation Program.

- On June 6, 2002, and June 15, 2002, Chairman Cox and a member of the GLC staff met with Commissioner John Nielsen to discuss the referral of three complaints to the Board's mediation program, to follow up on outstanding recommendations for training and policy, and to update the Commissioner on the Board's activities.
- 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. There was a public comment period at each meeting, and the meetings largely consisted of a discussion of committee work and the review of complaints.
- The Board continues to meet on 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 Board moved up its official meeting time from 7:00 p.m. to 6:00 p.m. through the end of 2002. Meetings will continue to be held at the Albany Public Library on Washington Avenue when space is available. The Community Room at 200 Henry Johnson Boulevard remains the primary alternate meeting location.

## TRAINING

Section 42-339 of the City Code requires that "the Government Law Center . . . provide, to CPRB members, and the members shall undergo continuing education . . ."

During the third quarter, the Board participated in the following training program:

- On May 4, 2002, the Board participated with the Board's investigators/monitors in a training program 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.
- On June 25, 2002, the Board's newest member, Barbara Gaige, graduated from the Albany Police Department's Citizen Police Academy after completing a thirteen week training program that began on March 26, 2002. Ms. Gaige has also participated in ride-alongs.

At the Board's request, training was suspended during the third quarter for the months of June and July. Training will resume in September 2002.

### COMPLAINT SUMMARIES AND STATISTICS

Section 42-340(C) of the City Code creating the Board charges the Board with providing "statistics and summaries of citizen complaints, including a comparison of the [Board's] findings with the final determinations of the [Police] Department."

During the third quarter, the Board received 26 new complaints, in addition to 27 pending complaints, three (3) complaints that were suspended from review in 2001 and one (1) complaint that was suspended in 2002. Monitors were appointed with respect to 12 of the 26 complaints. Of the 53 active complaints before the Board, the Board reviewed 23 complaints and closed 16. The following is a summary of those complaints:

Complaint No. 12-01/OPS No. C01-263 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force; 2) Unlawful entry into complainant's residence; 3) False arrest; *and* 4) Unwarranted and improper strip search of the complainant (police officer conducting search attempted to kiss the complainant).

OPS Preliminary Finding: "Not Sustained" as to the strip search allegation.

CPRB Finding: "Not Sustained" as to the strip search allegation.

APD Final Determination: "Not Sustained" as to the strip search allegation.

Complaint No. 30-01/OPS No. C01-428 [monitor appointed]

Nature of Allegation(s): 1) Unnecessary use of force (officer poked the complainant in the chest with a flashlight, the complainant's arm was bruised during arrest, the complainant's eyeglasses were broken and the complainant lost some personal property during the incident); *and* 2) Unlawful arrest.

OPS Preliminary Findings: "Unfounded" as to the unnecessary use of force allegation and "Exonerated" as to the unlawful arrest allegation.

CPRB Action: At its May 13, 2002 meeting, the Board voted unanimously to refer the complaint to mediation.

Complaint No. 32-01/OPS No. C01-447 [monitor appointed]

Nature of Allegation(s): 1) Improper search of the complainant's vehicle - after consent was given, the complainant was told by the officer that it could not be revoked; 2) Use of derogatory language to refer to the complainant; *and* 3) Improper pat down search of the complainant by an officer of the opposite gender.

OPS Preliminary Findings: "Not Sustained" as to the improper vehicle search allegation. "Sustained" as to the use of derogatory language allegation. "Ineffective Policy or Training" as to the improper pat down search allegation.

CPRB Findings: "Not Sustained" as to the improper vehicle search allegation. "Sustained" as to the use of derogatory language allegation. "Ineffective Policy or Training" as to the improper pat down search allegation.

APD Final Determination: "Not Sustained" as to the improper vehicle search allegation. "Sustained" as to the use of derogatory language allegation. "Ineffective Policy or Training" as to the improper pat down search allegation.

Complaint No. 41-01

Nature of Allegation(s): 1) Use of abusive language and inappropriate comments toward the complainant - police officer asked the complainant if the complainant had "sex with little boys lately"; *and* 2) Unprofessional conduct- police officer displayed a "heated," "feverish" demeanor.

CPRB Action: At its June 10, 2002 meeting, the Board voted unanimously not to accept the complaint for review because the incident giving rise to the complaint had occurred in 1999 and the complaint had been addressed by the police officer's supervisor in 1999.

Complaint No. 43-01/OPS No. C01-524 [monitor appointed]

Nature of Allegation(s): 1) Harassment of the complainant by the APD; *and* 2) Use of abusive/derogatory language to refer to the complainant - the complainant was called a "n\*gger" and a "n\*gger-lover."

OPS Preliminary Finding: "Unfounded" as to both allegations.

CPRB Finding: "Unfounded" as to both allegations.

APD Final Determination: "Unfounded" as to both allegations.

Complaint No. 1-02/OPS No. C01-515 [monitor appointed]

Nature of Allegation(s): 1) Improper conduct by an off-duty police officer - an officer stuck a badge in the complainant's face and demanded the complainant to move the complainant's vehicle, wrote something on a piece of paper and stated that the officer would "get" the complainant; *and* 2) Unlawful conduct by an off-duty officer - the officer was involved in breaking the window of the complainant's store.

OPS Preliminary Findings: "Not Sustained" as to the improper conduct allegation. A finding was not made with respect to the unlawful conduct allegation.

CPRB Findings: "Sustained" as to the improper conduct allegation. "Not Sustained" as to the unlawful conduct allegation.

APD Final Determination: "Not Sustained" as to the improper conduct allegation. A finding was not made with respect to the unlawful conduct allegation.

Complaint No. 3-02/OPS No. C02-01 [monitor appointed]

Nature of Allegation(s): 1) Use of force - a police officer "strangled" the complainant's minor son causing injury to his neck, back and wrists, and the police officer ripped a necklace off of the complainant's minor son's neck; *and* 2) Unprofessional conduct/harassment - a police officer verbally abused the complainant's minor son, told the complainant's minor son that he "would be waiting" for him to turn 16 and has given the complainant's minor son dirty looks.

OPS Preliminary Findings: "Exonerated" as to the use of force allegation and "Unfounded" as to the unprofessional conduct/harassment allegation.

CPRB Action: At its May 13, 2002 meeting, the complaint was returned to OPS for further investigation. On May 23, 2002, the Board referred the complaint to the Board's Mediation Coordinator, Karleen Karlson, Esq. On June 3, 2002, Chairman Cox met with Commissioner Nielsen to recommend that this complaint be mediated. Commissioner Nielsen agreed to participate in an "informal" meeting, coordinated by Ms. Karlson, with the complainant to discuss the complaint.

Complaint No. 4-02/OPS No. C02-13 [monitor appointed]

Nature of Allegation(s): Rudeness/Unprofessional conduct - police officers were rude and unprofessional during an encounter with the complainant where the complainant was ticketed for double parking, issued a traffic summons for not wearing a seatbelt, and had her car towed.

OPS Preliminary Finding: "Sustained."

CPRB Finding: "Sustained."

APD Final Determination: "Sustained."

Complaint No. 5-02 /OPS No. C02-45

Nature of Allegation(s): 1) Failure to return personal property - the complainant was arrested, taken to the station, and had his swiss army knife removed. The knife was not returned; 2) Unprofessional conduct - when the complainant returned to the station to retrieve his knife, he was yelled at, cursed at and laughed at by police officers, and threatened with arrest; and 3) Unnecessary use of force - while at the station, the complainant was pushed, had his arm twisted, was asked to remove items from his pockets and remove his clothing, and locked up.

OPS Preliminary Finding: "No Finding" as to all allegations.

CPRB Finding: "No Finding" as to all allegations.

APD Final Determination: "No Finding" as to all allegations."

Complaint No. 6-02/OPS No. C02-58 [monitor appointed]

Nature of Allegation(s): 1) Unlawful entry - police officers broke into the complainant's apartment, took the complainant's dog and left the complainant's apartment door open resulting in the loss of a large sum of the complainant's money; *and* 2) Rudeness/Unprofessional behavior - when the complainant attempted to report the missing money, the police officer taking the complainant was rude and "barked" at the complainant.

OPS Preliminary Findings: "Ineffective Policy or Training" as to the unlawful entry allegation and "Not Sustained" as to the allegation of rudeness/unprofessional behavior.

CPRB Findings: "Ineffective Policy or Training" as to the unlawful entry allegation and "Not Sustained" as to the allegation of rudeness/unprofessional behavior.

APD Final Determination: "Ineffective Policy or Training" as to the unlawful entry allegation and "Not Sustained" as to the allegation of rudeness/unprofessional behavior.

Complaint No. 7-02/OPS No. C02-88 [monitor appointed]

Nature of Allegation(s): Improper disclosure of identity of confidential informant - Complainant acted as an informant to assist the APD in arresting a person selling drugs in the complainant's neighborhood. The police department revealed the complainant's identity in a newspaper article, placing the complainant, the complainant's family and the complainant's business in jeopardy.

OPS Preliminary Finding: "Ineffective Policy or Training."

CPRB Finding: Tabled at the Board's June 10, 2002. The Board voted unanimously to schedule a meeting with the Mayor to discuss the complaint. On July 15, 2002, Chairman Cox met with Commissioner Nielsen. Commissioner Nielsen agreed to participate in an "informal" meeting, facilitated by the Board's Mediation Coordinator, Karleen Karlson, with the complainant to discuss the complaint.

Complaint No. 8-02/OPS No. C02-84 [monitor appointed]

Nature of Allegation(s): 1) Civil rights violation - a passenger in the complainant's vehicle was ordered out of the car during a traffic stop and subjected to a pat down search. A police officer at the stop would not permit the complainant to get out of the vehicle and would not answer questions about the stop; *and* 2) Racially-motivated traffic stop - the complainant and passenger are both African-American.

OPS Preliminary Findings: "Unfounded" as to both allegations.

CPRB Action: At the Board's June 10, 2002 meeting, the Board voted unanimously to return the complaint to OPS for further investigation so that OPS could make an additional attempt to contact and interview the complainant's passenger. The request was forwarded to OPS on June 14, 2002.

Complaint No. 9-02/OPS No. C02-106

Nature of Allegation(s): Rudeness/unprofessional conduct - at the scene of an encounter between police officers and the complainant's brother, the complainant was met with hostility, yelled at and belittled by a police officer and hit with the officer's vehicle door.

OPS Preliminary Finding: "Not Sustained."

CPRB Finding: "Not Sustained."

APD Final Determination: "Not Sustained."

Complaint No. 12-02/OPS No. C02-124

Nature of Allegation(s): 1) Use of inappropriate and profane language by police officers at the County Courthouse; *and* 2) Rudeness/unprofessional conduct - one of the officers was rude and uncooperative when the complainant asked for the officer's name.

OPS Preliminary Finding: "Sustained" as to the inappropriate/profane use of language allegation. A finding was not made with respect to the rudeness/unprofessional conduct allegation.

CPRB Finding: "Sustained" as to the inappropriate/profane use of language allegation. A finding was not made with respect to the rudeness/unprofessional conduct allegation.

APD Final Determination: "Sustained" as to the inappropriate/profane use of language allegation. A finding was not made with respect to the rudeness/unprofessional conduct allegation.

Complaint No. 13-02/OPS No. C02-150

Nature of Allegation(s): 1) Wrongful arrest - the complainant was wrongfully arrested at his place of employment on a vacated warrant; *and* 2) Rudeness - officers were rude to the complainant's spouse when the complainant's spouse attempted to find out information about the complainant's arrest.

OPS Preliminary Finding: "Sustained." A finding was not made with respect to the rudeness allegation.

CPRB Finding: "Sustained." A finding was not made with respect to the rudeness allegation.

APD Final Determination: "Sustained." A finding was not made with respect to the rudeness allegation.

Complaint No. 14-02/OPS No. C99-320

Nature of Allegation(s): 1) Unlawful entry - into the complainant's residence without a search or arrest warrant; 2) Use of force - the complainant was physically abused by arresting officer(s); 3) False arrest for assault; *and* 4) malicious prosecution.

OPS Finding: "Unfounded" in 1999 and the case was closed.

CPRB Action: At its June 10, 2002, the Board voted unanimously not to accept this complaint for review because it was not filed within 6 months of the incident giving rise to the complaint.

Complaint No. 17-02 [monitor appointed]

Nature of Allegation(s): Excessive use of force - complainant was attacked by a police officer during a traffic stop, grabbed in the neck, kned in the legs, and had his arms twisted during an incident in April of 2000.

CPRB Action: At its June 10, 2002, the Board voted unanimously to accept the complaint for review pursuant to Section 42-342 (C) of the City Code.

Complaint No. 18-02/OPS No. C02-205 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - the complainant was assaulted by three (3) police officers; *and* 2) Unlawful/false arrest for aggravated unlicensed operation of a vehicle.

OPS Preliminary Findings: "Exonerated" as to both allegations.

CPRB Action: At its July 8, 2002 meeting, the Board voted unanimously to return the complaint to OPS for further investigation to ascertain whether or not the complainant was licensed or unlicensed on the day the incident arose giving rise to the complaint. The request was forwarded to OPS on July 12, 2002.

Complaint No. 21-02/OPS No. C02-196

Nature of Allegation(s): Rudeness/unprofessional conduct - the complainant went to the police department to obtain information about a previously filed complaint. When the complainant asked to speak with a superior officer to find out why he had not been contacted about the complaint, a police officer came out "ranting" and "raving," threatened to arrest the complainant and attempted to instigate a physical altercation with the complainant.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: "Unfounded."

Complaint No. 24-02/OPS No. C02-233 [monitor appointed]

Nature of Allegation(s): At an intersection, a police officer went through the red light, struck the complainant's vehicle and ticketed the complainant for going through the red light.

OPS Preliminary Finding: "Exonerated."

CPRB Finding: "Exonerated."

APD Final Determination: "Exonerated."

Complaint No. 26-02

Nature of Allegation(s): Excessive use of force - the complainant was physically and sexually assaulted by a police officer while other officers observed.

Action: The Board's review of this complaint was suspended by the Mayor on June 10, 2002 pursuant to his authority under Section 42-348 of the City Code.

Complaint No. 28-02/OPS No. C02-263

Nature of Allegation(s): 1) Harassment - APD has unjustly investigated the complainant, has broken into the complainant's residence to remove video and answering machine recordings of a harassing phone call made by the police, and has followed the complainant; *and* 2) Unprofessional behavior - when the complainant attempted to file his complaint with OPS, the detectives were uncooperative and exhibited a nasty and defensive attitude.

OPS Preliminary Findings: "Unfounded" as to all allegations.

CPRB Findings: "Unfounded" as to all allegations.

APD Final Determination: "Unfounded as to all allegations."

Complaint No. 30-02/OPS No. C02-264

Nature of Allegation(s): Three (3) police officers ordered the complainant to get evaluated at the VAMC. The complainant requested that his car be towed to the VAMC for safekeeping and gave one of the officers the keys. When the complainant was discharged from the VAMC, he learned that his car was towed to a garage and he was charged a \$25 per day for a total of \$1,000. The complainant was never informed of his rights with respect to the car.

OPS Preliminary Finding: "No Finding."

CPRB Finding: "No Finding." At its July 8, 2002 meeting, the Board advised the complainant to make a request for reimbursement for the towing and related storage fees to the City's Corporation Counsel. Commander Bruno agreed to assist the complainant in filing and expediting his request.

APD Final Determination: "No Finding."

#### RECOMMENDATIONS FOR POLICY REVIEW/IMPLEMENTATION

On June 4, 2001, the Board adopted Resolution No. 1 of 2001 against bias-based policing and racial profiling in the City of Albany. In his letter of May 7, 2002 to the Government Law Center, Commissioner Nielsen reported that Commander Paula Breen of the Albany Police Department has done extensive research and training on this issue.

At the Board's October 15, 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 May 7, 2002 letter, Commissioner Nielsen responded that such actions are neither condoned by the Albany Police Department nor will they be tolerated. The Commissioner added that he has spoken with Commander Bruno about this issue and anticipates the Commander's response as to whether this issue needs to be addressed.

On December 3, 2001, the CPRB submitted a recommendation for a policy review of the police department's policy regarding landlord/tenant disputes. The review was recommended because a complainant, a landlord, had been arrested for petit larceny after refusing to turn over property belonging to a tenant who owed the landlord back rent. On May 3, 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.

At the Board's February 11, 2002 meeting and in a letter to Commissioner Nielsen dated March 1, 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 8, 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 is expected to be completed and forwarded to the Commissioner of Public Safety by August 2002.

#### GOVERNMENT LAW CENTER

During the third quarter, 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:

- 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 APD'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.
- Arranged logistics and coordinated [public] notice for Board meetings.
- Arranged logistics for and coordinated the public outreach meeting.
- Arranged logistics for and coordinated the Board's training program, including securing the date, time, location, speakers and materials.
- Attended Board meetings, training programs and outreach meeting.
- Provided content for, updated and maintained the Board's Web site.
- Conducted a monthly inventory of complaints filed with the Board, including a summary of case status, recommendations and pending requests to the Chief of Police/Commissioner of Public Safety. Reported updated information to the Board at each of its third quarter meetings.
- Provided various administrative functions including:
  - ▶ assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police/Commissioner of Public Safety and the Office of Professional Standards;
  - ▶ conducted daily file accounting and inventory;
  - ▶ received and logged-in complaints, opened and closed case files;
  - ▶ prepared and assembled monthly meeting packets for Board members, including photocopying complaints, reports and accompanying documents for review;
  - ▶ transcribed minutes of monthly meetings;
  - ▶ scheduled regular meetings, outreach meetings and training dates, times and locations;
  - ▶ coordinated training speakers;
  - ▶ created and compiled training materials;
  - ▶ maintained regular communications with Board members; and
  - ▶ answered inquiries from the community about the CPRB and the complaint review process.

## CONCLUSION

The Board had a very active third quarter, which included reviewing nearly half of its 53 active complaints; participating in a community outreach/training meeting with the One Hundred Black Men of the Capital Region; attending a training session devoted to developing the Board's monitoring process; meeting with the Commissioner; and holding its monthly public meetings.

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

Dated: September 19, 2002