

City of Albany

CITIZENS' POLICE REVIEW BOARD

Quarterly Report February 1, 2003

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



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

February 1, 2003

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 first quarterly report so submitted in the year 2003.

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 first quarter:

Dr. Manuel Alguero
Rev. Kenneth E. 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 first quarter, with each Board member serving on at least one committee:

Complaint Review	Manuel Alguero Barbara Gaige Marilyn Hammond 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 first quarter of 2003:

- 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 at least one complaint at each meeting. Seventeen (17) complaints were presented and reviewed during the first quarter, and the following Board members served on the committee:

November 2002 Manuel Alguero, Barbara Gaige, Marilyn Hammond,
 Herman Thomas and Paul Weafer

December 2002 Manuel Alguero, Barbara Gaige, Eleanor Thompson,
 Paul Weafer and Michael Whiteman

January 2003 Manuel Alguero, Marilyn Hammond, Herman Thomas,
 Michael Whiteman and Paul Weafer

- On November 19, 2002, Chairman Kenneth Cox, Vice Chairman Herman Thomas, Eleanor Thompson and two members of the GLC staff participated in a liaison meeting with the Mayor, the Deputy Mayor and the Commissioner. Among the items discussed were the Board's recent attendance at the National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference; the preparation of a press release about the Board's attendance; the development of a one-page insert about the Board and the complaint review process to be disseminated in a city-wide mailing; and the reappointment of Herman Thomas.
- On December 9, 2002, Chairman Kenneth Cox met with GLC Staff Attorney Justina Cintrón to discuss the Board's outreach initiatives. Chairman Cox directed the GLC to schedule outreach meetings with the Police Union leadership; the Black Police Officers Association; the Common Council; and each of the community organizations and advocacy groups that the Board had met with during its first year of operation.
- On December 9, 2002, Chairman Cox and Commissioner John Nielsen met to discuss the Board's concerns about the outstanding cases referred

to mediation. Commissioner Nielsen delegated authority to the Office of Professional Standards to communicate with the Board through the Government Law Center about complaints referred to mediation.

- 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 11, 2002, December 9, 2002, and January 13, 2003. There was a public comment period at each meeting, and the meetings largely consisted of 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 will maintain its 6:00 p.m. meeting time for 2003. 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 first quarter of 2003, the Board participated in the following training programs:

- October 31- November 3, 2002 - seven members of the Board attended the NACOLE Conference in Cambridge, Massachusetts. The conference, entitled “The Value of Citizen Oversight: Dollars and Sense,” featured workshops, panel discussions, and a keynote address on conducting police oversight where political terrorism is part of the landscape.
- November 18, 2002 - the Board attended and participated in a Freedom of Information Law (FOIL)/Open Meetings Law (OML) refresher conducted by the Executive Director of the Committee on Open Government, Robert Freeman.
- December 28, 2002 - the Board attended a training session, entitled “Revisiting the Law,” where members participated in a facilitated discussion of the current CPRB legislation. During that session, the Board compiled a working list of proposed changes to the law, including, but not limited to:

- replacing references to "Chief" with "Commissioner";
- lowering the quorum requirement from "seven" to "five";
- including "or aggravated incivility or rudeness" following ". . . mental or physical ability" in §42-332(A), Legislative findings; purpose;
- replacing "promptly" in §42-335, Removal of members; filling of vacancies with "within thirty (30) days";
- replacing the language "for briefing and communicating with the appointed individuals referenced in Subsection B of this section" in §42-343(C), Review of complaints, with "detailing the scope of the monitors observatory participation with respect to the conduct of the investigation which shall be sufficiently encompassing to ensure a meaningful role in support of the CPRB's responsibilities and duties under this Part 33", including "on its own initiative or upon the request of the CPRB," after "The Government Law Center," inserting "modifying" after "with regard to" and before "such procedures, and adding "in a manner which best enables the City and the CPRB to secure the optimum effectuation of the findings and purposes set forth in §42-332 of this Part 33"; and
- adding the language "within thirty (30) days" following ". . . make the Department's final determination known to the CPRB, the affected officer and the complainant" in §42-345, Final determination.

The session was coordinated and facilitated by a member of the Government Law Center staff.

- January 27, 2003 - Several members of the Board participated in a training session for the Board's investigators/monitors designed to serve as an orientation program for the Board's newest investigator/monitor, Joel Pierre-Louis, and a reorientation program for the Board's existing monitors, Theresa Balfe, George Kleinmeier, Albert Lawrence and Richard Lenihan. The training addressed the CPRB's Operating Procedures; the CPRB's monitoring process; OPS's procedures for communicating with investigators/monitors; and excerpts from the CPRB legislation relating the investigators/monitors.

A training session on Racial Profiling is scheduled for the second quarter and will be conducted by Albany Law School Professor Lenese Herbert.

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 first quarter of 2003, the Board received 10 new complaints, in addition to 43 pending complaints, three (3) complaints that were suspended from review in 2001 and one (1) complaint that was suspended in 2002. Monitors were appointed to five (5) of the 10 new complaints. Of the 53 active complaints before the Board, the Board reviewed 17 complaints and closed 14. The following is a summary of those complaints:

Complaint No. 07-02/OPS No. C02-88 [monitor appointed]

Nature of Allegation(s): Unprofessional Conduct - complainant acted as an informant to assist police in arresting a person selling drugs in her neighborhood and her identity was revealed by the police in a newspaper article, placing the complainant and her day care center in jeopardy.

OPS Preliminary Finding: "Ineffective Policy or Training."

CPRB Finding: "Mediated."

APD Final Determination: Pending

Complaint No. 17-02/OPS No. C02-282 [monitor appointed]

Nature of Allegation(s): 1) Excessive Use of Force - the complainant was assaulted by a police officer who attacked the complainant, grabbed his neck, kned his legs and twisted his arm; *and*

2) Racially-Motivated Traffic Stop - the complainant was unnecessarily stopped, detained and issued several traffic tickets.

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

CPRB Findings: "Unfounded" as to both allegations.

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

Complaint No. 39-02/OPS No. C02-302 [monitor appointed]

Nature of Allegation(s): Unprofessional Conduct - while traveling on Route 85 and I-90, an off-duty officer "cut" the complainant off, put his finger up, and followed the complainant, harassing and tailgating her until she reached a nearby police station.

OPS Preliminary
Finding: "Not Sustained."

CPRB Action: At its January 13, 2002 meeting, the Board voted unanimously to refer the complaint to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 40-02/OPS No. C02-333 [monitor appointed]

Nature of Allegation(s): Excessive Use of Force - a police officer punched the complainant in the stomach, kicked him in the legs, grabbed his neck, and threw him to the ground.

OPS Preliminary
Finding: "Exonerated."

CPRB Finding: "Exonerated."

APD Final
Determination: Pending

Complaint No. 41-02/OPS No. C02-302 [monitor appointed]

Nature of Allegation(s): 1) Excessive Use of Force - in responding to an altercation at a party, police officers "slammed" kids into parked cars, sprayed mace, pinned down the complainant's daughter and "caught" her in the leg with a billy club causing a fracture; *and*

2) Unprofessional Conduct - police officers were too aggressive in breaking up the altercation.

OPS Preliminary Findings: 1) "Not Sustained" as to the excessive force allegation; *and*
2) "Exonerated" as to the unprofessional conduct allegation.

CPRB Findings: 1) "Not Sustained" as to excessive force allegation; *and*
2) "Exonerated" as to the unprofessional conduct allegation.

APD Final Determination: Pending

Complaint No. 42-02 /OPS No. C02-352

Nature of Allegation(s): Wrongful Arrest - the complainant was stopped because she fit the description of a person suspected of taking money from a man and was arrested for criminal impersonation although the man did not wish to press charges.

OPS Preliminary Finding: "Exonerated."

CPRB Finding: "Sustained."

APD Final Determination: "Exonerated."

Complaint No. 43-02/OPS No. C02-356 [monitor appointed]

Nature of Allegation(s): 1) Excessive Use of Force - during a call for a domestic dispute at the complainant's house, a police officer attacked the complainant, twisting her arms, slamming her to the floor, mashing her face into the floor, and picking her up by the collar causing her to choke; *and*
2) Neglect of Official Duties - the officer failed to listen to the complainant's version of the events and "lied" in the incident report.

OPS Preliminary Findings: 1) "Unfounded" as to the excessive use of force allegation; *and*

2) "Sustained" as to the neglect of official duties allegation.

CPRB Action: 1) At its November 11, 2002 meeting, the Board voted unanimously to refer the complaint with respect to the excessive use of force allegation to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code; *and*

CPRB Finding: 2) "Sustained" as to the neglect of official duties allegation.

APD Final
Determination: Pending

Complaint No. 46-02/OPS No. C02-474

Nature of Allegation(s): Neglect of Official Duties - OPS refused to take a statement from the complainant's wife during the course of its investigation of the complaint.

OPS Preliminary
Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final
Determination: "Unfounded."

Complaint No. 47-02/OPS No. C02-374

Nature of Allegation(s): Rudeness/Unprofessional Conduct/Racially-Biased Behavior-during an incident involving the complainant's vehicle, a police officer acted in a "rude and threatening manner"; improperly ticketed her vehicle while it was parked in her driveway; and exhibited racially-biased behavior toward her.

OPS Preliminary
Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final
Determination: "Unfounded."

Complaint No. 48-02/OPS No. C02-373 [monitor appointed]

Nature of Allegation(s): Failure to Return Property - upon his release following an arrest, the complainant was returned all of his property with the exception of a diamond ring, which had not been located when the complaint was filed.

OPS Preliminary Finding: "No Finding."

CPRB Finding: "No Finding."

APD Final Determination: "No Finding."

Complaint No. 49-02 /OPS No. C02-381 [monitor appointed]

Nature of Allegation(s): Use of Derogatory Language/Abuse of Authority - during a stop and frisk, the complainant was degraded, called derogatory names, and threatened with arrest by police officers.

OPS Preliminary Finding: "Not Sustained."

CPRB Finding: "Not Sustained."

APD Final Determination: "Not Sustained."

Complaint No. 50-02/OPS No. C02-420

Nature of Allegation(s): 1) Failure to Engage Emergency Equipment Causing Collision - a police officer failed to use sirens and lights on the officer's patrol car when the officer approached and attempted to pass the complainant's car causing a collision;

2) Improper Issuance of a Citation - after being told she would not be issued a ticket following a collision with a patrol car, the driver of the vehicle, the complainant's daughter, was later issued a ticket;

3) Unjustifiable Withholding of a Driver's License - the driver's license was taken at the accident scene and was not immediately returned; *and*

4) Undue Delay in Furnishing Accident Report - the complainant could not obtain a copy of the accident report for 2 months.

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

CPRB Action: At its January 13, 2003 meeting, the Board voted unanimously to return the complaint to OPS for further investigation pursuant to its authority under § 42-343(F)(2) of Chapter 42, Part 33 of the Albany City Code to determine what efforts were made to communicate with the complainant regarding the issuance of the citation and the withholding of the driver's license, and what caused the delay in issuing the accident report.

Complaint No. 51-02/OPS No. C02-393

Nature of Allegation(s): 1) Rudeness/Discourtesy - after being issued three tickets, the ticketing officer treated the complainant rudely and with disrespect; did not give her an opportunity to ask questions; and failed to explain the tickets to her.

2) Improper Issuance of Three Citations - the officer improperly issued three tickets to the complainant who felt she "did nothing wrong."

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

CPRB Findings: "Exonerated" as to both allegations.

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

Complaint No. 52-02/OPS No. C02-411

Nature of Allegation(s): Neglect of Official Duties - over the complainant's protest and objection, a police officer called the Capital District Psychiatric Center (CDPC) and suggested that she be

evaluated instead of assisting her with reporting incidents of harassment and stalking she claimed were committed against her.

OPS Preliminary Findings: "Exonerated."

CPRB Findings: "No Finding."

APD Final Determination: "Exonerated."

Complaint No. 56-02/OPS No. C02-466 [monitor appointed]

Nature of Allegation(s): 1) Neglect of Official Duties - police officers refused to provide the complainant with an incident number so that she could obtain an order of protection against her harassing neighbor; *and*
2) Rudeness/Discriminatory Conduct - a police officer made insulting comments about the complainant being a Section 8 tenant, and treated her in a discriminatory manner by refusing to assist her with a harassment complaint.

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

CPRB Findings: "Unfounded" as to both allegations.

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

Complaint No. 57-02/OPS No. C02-428

Nature of Allegation(s): 1) Improper Stop - the complainant's son was stopped by a police officer and questioned for "no reason"; *and*
2) Improper Use of a Firearm - while questioning the complainant's son, the officer put his hand on his firearm, causing the young man to run; drew and pointed his weapon at the young man, yelling, "stop or I'll shoot you're a*s"; and pointed his weapon at the complainant, stating "put your f*cking hands over your head."

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

CPRB Action: At its December 12, 2002 meeting, the Board voted unanimously to refer the complaint to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 59-02/OPS No. C02-477 [monitor appointed]

Nature of Allegation(s): Neglect of Official Duties - following a traffic accident in which the complainant was involved, the investigating police officer "indiscriminately" took two "white" drivers' statements, and refused to take statements from pedestrian witnesses.

OPS Preliminary Findings: "Unfounded."

CPRB Findings: "Unfounded."

APD Final Determination: "Unfounded."

GOVERNMENT LAW CENTER

During the first quarter of 2003, 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, police officers, Commander Anthony Bruno and Commissioner John Nielsen for four (4) new complaints, in addition to the previous six (6) complaints, referred to the Board's Mediation Coordinator for mediation or "informal" mediation.
- Present during meetings and participated in ongoing discussions with the Board, Assistant Corporation Counsel, Todd Burnham, Commissioner Nielsen, Commander Bruno and Sergeant Kevin Connelly about outstanding complaints and cases referred to mediation. Discussions included suggestions for improving communication between the Board and the police department regarding complaints recommended for mediation; identifying complaints that are mediation appropriate when filed; including information about mediation appropriate complaints in

OPS's preliminary reports; and providing a box on the complaint form about willingness to participate in mediation.

- Interviewed and recommended for consideration the appointment of a new Board investigator/monitor, Joel Pierre-Louis, Esq., and continued to interview potential Board monitors.
- Submitted a proposal, in cooperation with the City of Albany and the Albany Police Department, to the NACOLE Board of Directors to host the 2004 NACOLE Conference in Albany.
- Arranged logistics and coordinated [public] notice for Board meetings.
- Attended Board meetings and provided a report of any activities related to Board business occurring since the Board's last 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 fourth 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;
 - ▶ maintained regular communications with Board members; and
 - ▶ answered inquiries from the community about the CPRB and the complaint review process.

CONCLUSION

The Board had an active first quarter, which included reviewing just over one third of its active complaints; participating in the three-day NACOLE Conference and three

additional training programs; meeting with the Mayor and Deputy Mayor to discuss reappointments and new initiatives for its community outreach/education program; meeting with the Commissioner to discuss and improve its mediation program; hiring a new board investigator/monitor 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: February 1, 2003