

City of Albany

CITIZENS' POLICE REVIEW BOARD

Quarterly Report May 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

May 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 second 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 second 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:

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| Chair | Kenneth Cox |
| Vice-Chair | Herman Thomas |
| Secretary | Michael Whiteman |

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

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| Complaint Review | Manuel Alguero Barbara Gaige Marilyn Hammond Judith Mazza Herman Thomas Eleanor Thompson Paul Weafer |
|------------------|--|

Michael Whiteman

Outreach/Education Kenneth Cox
 Judith Mazza
 Herman Thomas

Both committees were active this quarter. In general, the following has been accomplished during the second 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 second quarter. The following Board members served on the committee:

February 2003 Manuel Alguero, Barbara Gaige, Judith Mazza, Paul Weafer and Michael Whiteman

March 2003 Manuel Alguero, Barbara Gaige, Judith Mazza, Herman Thomas and Michael Whiteman

April 2003 Barbara Gaige, Marilyn Hammond, Herman Thomas, Paul Weafer and Michael Whiteman

- On March 19, 2003, Manuel Alguero, Barbara Gaige, Marilyn Hammond and Michael Whiteman attended and participated in an outreach meeting with the Executive Director and several members of the Board of the Capital District Chapter of the New York Civil Liberties Union (NYCLU). During the meeting, Dr. Alguero, Ms. Gaige, Ms. Hammond and Mr. Whiteman had an opportunity to discuss the scope of the Board's power and authority under the legislation, including limitations that may impact, from the community's perspective, its effectiveness. Members of the NYCLU in attendance identified two key areas of concern: 1) racial profiling and 2) the lack of an early warning system to identify "rogue" officers, and suggested that the NYCLU appoint a liaison to the Board.
- The Board met as a whole three times for the conduct of business during the second quarter. All three meetings were held at the Albany Public Library on Washington Avenue. Meetings were held on February 10, 2003, March 10, 2003, and April 14, 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 continue 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 second quarter of 2003, the Board attended and participated in a two-hour racial profiling training program conducted by Professor Lenese Herbert of Albany Law School. The session included a discussion of what racial profiling is, how to detect the occurrence of racial profiling and ways to prevent racial profiling as a police practice. The session also included a brief discussion of the 4th and 14th Amendments as they apply to racial profiling issues and racial profiling trends across the country.

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 second quarter of 2003, the Board received 13 new complaints in addition to 34 pending complaints (two (2) of which were treated as a single complaint), three (3) complaints that were suspended from review in 2001 and one (1) complaint that was suspended in 2002. Monitors were appointed to 11 of the 13 new complaints. Of the 47 active complaints before the Board, the Board reviewed 17 complaints, tabled its findings for one (1) complaint, rendered findings for 13 complaints, rendered partial findings for one (1) complaint, requested further investigation of two (2) complaints, and referred one (1) complaint to mediation. The following is a summary of those complaints:

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

Nature of Allegation(s) 1) Unlawful Arrest - complainant was placed under arrest for no reason.

2) Unnecessary Use of Force - complainant was poked in the chest with a flashlight, his arm was bruised during the arrest, his eyeglasses were broken, and some

personal property was lost.

OPS Preliminary Findings:

- 1) "Exonerated" as to the unlawful arrest allegation and,
- 2) "Unfounded" as to the unnecessary use of force allegation.

CPRB Findings:

- 1) "Exonerated" as to the unlawful arrest allegation and,
- 2) "Unfounded" as to the unnecessary use of force allegation.

APD Final Determination:

Pending

Complaint No. 15-02/OPS No. C02-169 [monitor appointed]

Nature of Allegation(s):

- 1) Traffic Stop - complainant's vehicle was stopped due to complainant's race, the officer acted rudely toward the complainant, the complainant's vehicle was searched without consent, and the complainant was unjustifiably issued a ticket; *and*
- 2) Use of force - the officer pushed the complainant against the vehicle.

OPS Preliminary Findings:

- 1) "Exonerated" as to the allegations regarding the traffic stop; *and*
- 2) "Not Sustained" as to the use of force allegation.

CPRB Action/ Finding:

- 1) At its April 14, 2003 meeting, the Board voted unanimously to return the complaint to OPS, pursuant to its authority under Section 42-343(F)(2) of Chapter 42, Part 33 of the Albany City Code, for further investigation of the officer's motivation for stopping and searching the complainant and his vehicle apart from the fact that the stop was made in a "high drug area" and the complainant was seen with a "known prostitute"; *and*
- 2) "Not Sustained" as to the use of force allegation.

APD Final
Determination: Pending

Complaint No. 31-02/OPS No. C02-276

Nature of Allegation(s): Harassment - complainant's neighbor, an Albany Police Officer, has been watching the complainant's home for drugs, and has stopped and questioned complainant's acquaintances leaving his home.

OPS Preliminary
Finding: "Unfounded."

CPRB Action: At its April 14, 2003, the Board tabled its review of the complaint and delayed rendering a finding to allow an opportunity for Assistant Corporation Counsel to consult with the Commissioner as to: 1) the timeliness of the investigation of the complaint and 2) whether or not a statement from a witness identified by the complainant exists substantiating the complainant's version of the events in his complaint.

Complaint No. 41-02/OPS No. C02-355 [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 the complainant's daughter down 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 use of force allegation; *and*

2) "Exonerated" as to the unprofessional conduct allegation.

CPRB Findings: 1) "Not Sustained" as to the excessive use of force allegation; *and*

2) "Exonerated" as to the unprofessional conduct allegation.

APD Final
Determination: Pending

Complaint No. 45-02/C02-275) [monitor appointed]

Nature of Allegation(s): 1) Retaliatory Harassment - after the complainant filed a complaint against his neighbor, an Albany police officer, the officer began harassing him;

2) Misuse of Police Authority - complainant's neighbor commented "I'll be paying him a visit . . ." while being arraigned for charges filed by complainant, and shortly thereafter engaged the complainant in a traffic stop, arrested him for a suspended registration and had his car towed;

3) False Arrest/Arrest without Probable Cause - during the traffic stop, the complainant was told that the reason for his arrest was a suspended registration. When the complainant inquired about probable cause for the stop, he was told by the officer that a graduation tassel hanging in the rear view mirror was causing a driving obstruction; *and*

4) Excessive and Unnecessary Use of Force - during the arrest, the complainant's handcuffs were "inordinately tight" and were not loosened upon request.

OPS Preliminary Findings:

1) "Sustained" as to the retaliatory harassment allegation;

2) "Sustained" as to the misuse of police authority allegation;

3) "Sustained" as to the false arrest/arrest without probable cause allegation to the extent that the officer failed to adhere to a departmental order relating to arrests solely for suspended registrations; *and*

4) "Sustained" as to the excessive and unnecessary use of force allegation to the extent that the complainant should not have been handcuffed.

CPRB Findings:

1) "Sustained" as to the retaliatory harassment allegation;

2) "Sustained" as to the misuse of police authority allegation;

3) "Sustained" as to the false arrest/arrest without probable cause allegation to the extent that the officer failed to

adhere to a departmental order relating to arrests solely for suspended registrations; *and*

4) "Sustained" as to the excessive and unnecessary use of force allegation to the extent that the complainant should not have been handcuffed.

APD Final
Determination: Pending

Complaint No. 53-02/OPS No. C02-410 [monitor appointed]

Nature of Allegation(s): Excessive Use of Force - during the complainant's arrest for possession of stolen property, the complainant was "kicked and stomped in the head area repeatedly by officers" while being placed in handcuffs.

OPS Preliminary
Finding: "Not Sustained."

CPRB Finding: "Not Sustained."

APD Final
Determination: "Not Sustained."

Complaint No. 54-02/55-02/OPS No. C02-476

Nature of Allegation(s): Use of Force - following an incident at Price Chopper, complainant was "handcuffed" and forced to go to the hospital against his will.

OPS Preliminary
Finding: "Exonerated."

CPRB Finding: "Exonerated."

APD Final
Determination: "Exonerated."

Complaint No. 61-02 /OPS No. C02-520

Nature of Allegation(s): Excessive Use of Force - the complainant was the victim of a brutal assault and battery committed by a Sheriff's Department correctional officer stationed at the Albany County Correctional Facility.

OPS Preliminary

Finding: "No Finding."

CPRB Finding: "No Finding."

APD Final
Determination: "No Finding."

Complaint No. 62-02/OPS No. C02-511 [monitor appointed]

Nature of Allegation(s): 1) Excessive Use of Force - the complainant alleges that after running from the police and surrendering by laying down in the grass, an officer jumped on his back, punched him in the face, spit on him, and called him a "n*gger."

OPS Preliminary
Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final
Determination: "Unfounded."

Complaint No. 63-02/OPS No. C02-537 [monitor appointed]

Nature of Allegation(s): 1) Improper Search - the complainant's home was "raided" without a warrant, his 12-year-old daughter was handcuffed, officers failed to show either the complainant or his wife the search warrant when requested, and the complainant has been unable to obtain a copy of the warrant; *and*

2) Improper Stop, Arrest, and Seizure - the complainant was improperly arrested after an invalid traffic stop and his car was improperly seized after the arrest, returned and seized a second time.

OPS Preliminary
Findings: 1) "Exonerated" as to the improper search allegation; *and*

2) "Exonerated" as to the improper stop, arrest, and seizure allegation.

CPRB Findings: 1) "Exonerated" as to the improper search allegation; *and*

2) "Exonerated" as to the improper stop, arrest, and seizure allegation.

APD Final

Determination:

- 1) "Exonerated" as to the improper search allegation; *and*
- 2) "Exonerated" as to the improper stop, arrest, and seizure allegation.

Complaint No. 64-02/OPS No. C02-539 [monitor requested]

Nature of Allegation(s):

- 1) Improper Search - complainant's son was "repeatedly" searched for no reason;
- 2) Improper Ticketing - complainant son's was improperly issued two tickets;
- 3) 911 Phone Call - complainant called 911 and was hung-up on; *and*
- 4) Disrespect/Use of Derogatory Language - officers at the scene were disrespectful, using derogatory language such as "moron [and] uneducated people," they further challenged the complainant's brother to fight and told her family and neighbor to mind their own business.

OPS Preliminary Findings:

- 1) "Unfounded" as to the improper search allegation;
- 2) "Unfounded" as to the improper ticketing allegation;
- 3) "Unfounded" as to the 911 phone call allegation; *and*
- 4) "Sustained" as to the disrespect/use of derogatory language allegation.

CPRB Findings:

- 1) "Unfounded" as to the improper search allegation;
- 2) "Unfounded" as to the improper ticketing allegation;
- 3) "Unfounded" as to the 911 phone call allegation; *and*
- 4) "Sustained" as to the disrespect/use of derogatory language allegation.

APD Final

Determination:

Pending

Complaint No. 65-02/OPS No. C02-541 [monitor requested]

Nature of Allegation(s): Excessive Use of Force - officers "smacked [the complainant] upside the left side" of his face, punched him in the eye while cuffed, slammed him against a brick wall, held his head against the bricks and struck him with a steel baton once in the right eyebrow, once in the back and twice on the right arm.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: Pending

Complaint No. 67-02/OPS No. C02-553

Nature of Allegation(s): Unprofessional Conduct - an officer was parked on the wrong side of a road ordering others to move their cars because they were blocking the road. When the complainant confronted the officer on the issue, a brief verbal exchange ensued. The officer then got out of his car and went over to another woman parked on the opposite side of the road and told her that the complainant had asked the officer to issue the female a ticket for blocking the street and proceeded to take her license and registration. Another brief verbal exchange followed between the complainant and the officer.

OPS Action: Referred to Mediation

CPRB Action: At its March 10, 2003 meeting, the Board voted unanimously to refer the complaint to mediation pursuant to its authority under Section 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 68-02 /OPS No. C02-555

Nature of Allegation(s): Rudeness/Discourtesy - an officer at the Social Security Office asked the complainant to stop speaking loudly, followed her and asked her not to come back or else the officer "would arrest her and throw her in jail."

OPS Preliminary Finding: "No Finding."

CPRB Finding: "No Finding."

APD Final Determination: Pending
Complaint No. 69-02/OPS No. C02-558

Nature of Allegation(s): Unlawful Search and Arrest - during a pedestrian stop, the complainant was searched for no reason and arrested for false personation although the complainant gave the officer his name, the officer saw his wallet and driver's license and ran the complainant's information for warrants and "nothing came back." The officer stated, "since you want to bust my b*lls, I am going to bust yours."

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: Pending

Complaint No. 2-03/OPS No. C03-03

Nature of Allegation(s): 1) Unlawful Stop and Search - complainant was stopped by an officer, claiming she fit the description of a robbery suspect, but the officer did not check her name over the radio. After asking the complainant what was in her pockets, the officer grabbed her coat pocket asking if she had a cigarette pack on her; *and*

2) Unprofessional Conduct/Rudeness - during the pedestrian stop, the officer "said smart and nasty words," stated to the complainant, "you don't scare me," was rude when the complainant asked for the officer's name, replying "you don't need to know my name," and threw her license at her.

OPS Preliminary Findings: 1) "Exonerated" as to the unlawful stop and search allegation; *and*

2) "Not Sustained" as to the unprofessional conduct/rudeness allegation.

CPRB Action: At its April 14, 2003 meeting, the Board voted unanimously to return the complaint to OPS, pursuant to its authority under Section 42-343(F)(2) of Chapter 42, Part 33 of the Albany City Code, to further investigate 1) whether or not the officer used a contact card or form to record the incident and 2) if a contact card or form was used, why there was a delay in entering the data from the card or form into the department's database system.

GOVERNMENT LAW CENTER

During the second 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 the complainant, police officer, Commander Anthony Bruno and Commissioner John Nielsen for one (1) new complaint, in addition to the six (6) outstanding complaints, referred to the Board's Mediation Coordinator for mediation.
- Forwarded to the City the resume of an individual interested in a position as a Board investigator/monitor.
- Prepared and submitted a press release to the City regarding the Board's participation in the NACOLE Conference and the Center's proposal to host the 2004 NACOLE Conference, in cooperation with the City of Albany and the Albany Police Department.
- Prepared and submitted a memorandum to the City requesting a clarification of approved billable expenses for Board investigators/monitors.
- Received notice that the National Association for Civilian Oversight of Law Enforcement (NACOLE) had rejected its proposal to host the 2004 NACOLE Conference in Albany.
- After receiving approval of its proposal for funding a part-time graduate student to assist the Government Law Center in providing administrative support to the Board, the Center interviewed and hired, Katherine Raynor, a graduate student who is pursuing a master's degree in criminal justice at SUNY Albany, to assist in providing support services to the Board. Ms. Raynor, who is working with the Board on a part-time basis, is undergoing training on the CPRB legislation, the complaint review process, the Board's

- mediation program, and is receiving technical training with respect to the administrative aspects of the Board's day to day operations.
- Met with Lieutenant John Finn, Detective Sergeant Kevin Connolly and Detective Kathy Hendrick of the Albany Police Department to discuss enhancements to the Department's Early Warning system. There was a discussion regarding the categorizing of complaints to ensure that both the Department's records and the Board's records were consistent. The Center agreed to research how other citizen oversight entities categorize complaints and report its findings to the Department for consideration.
 - Forwarded to the Board "Citizen Oversight of the Albany Police: Perceptions of Residents, Police Clients, and Complainants 2002," a report prepared by the School of Criminal Justice & the Hindelang Criminal Justice Research Center at the University of Albany.

In addition, the Center 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 second quarter 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 had an active second quarter, which included reviewing more than one quarter of its active complaints; participating in an outreach meeting with the NYCLU; attending a training session on racial profiling 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: May 1, 2003