

# City of Albany

# CITIZENS' POLICE REVIEW BOARD

## Quarterly Report August 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

August 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 third 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 third 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 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	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

In general, the following occurred during the third quarter of 2003:

- Pursuant to the Board's Operating Procedures (Section II Review of Complaints, Subsection I), each of the 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. Eleven (11) complaints were presented and reviewed during the third quarter. The following Board members served on the committee:

June 2003     Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, Eleanor Thompson, Paul Weafer, and Michael Whiteman.

July 2003     Barbara Gaige, Herman Thomas, and Paul Weafer.

- On May 7, 2003, Marilyn Hammond and Judith Mazza attended and participated in an outreach meeting with the Capital District Gay and Lesbian Community Council. During the meeting, Ms. Hammond and Ms. Mazza had an opportunity to meet the Council's new Executive Director. The Council recommended that the Board prepare and submit an article for its newsletter about the Board, how to file a complaint and the complaint review process.
- On May 29, 2003, Chairman Kenneth Cox, Judith Mazza, Marilyn Hammond, and Eleanor Thompson attended and participated in an outreach meeting with members of the Executive Board of the Center for Law and Justice. During the meeting, members of the Review Board and members of the Center's Executive Board discussed the Board's authority to make recommendations regarding police policies and practices, and a suggestion was made, by the Center, to set aside time on each monthly meeting agenda to discuss recommendations regarding police policies and practices. A suggestion was also made to include a report from the Commissioner of Public Safety at each monthly meeting.
- On July 12, 2003, Reverend Kenneth Cox, Marilyn Hammond, Eleanor Thompson and Michael Whiteman met to discuss the Board's issues and concerns regarding the conduct of Board members during Board meetings; the need for improvements to the CPRB legislation; and the lack of response by the Commissioner to recommendations and requests pertaining to complaints. A suggestion was made to coordinate a

meeting with the Mayor's Office and the Common Council regarding improvements to the CPRB legislation, and to arrange for a meeting with the Commissioner of Public Safety to discuss concerns pertaining the outstanding Board recommendations and requests.

- On July 28, 2003, the Board held a special meeting to allow an opportunity for the President of Council 82, James Teller, to comment on the Union's issues and concerns with respect to the Board's conduct during monthly meetings, the complaint review process, and the mediation program. Much of the discussion during the meeting centered around the union's concerns regarding police officer participation in the Board's mediation program.
- Due to a conflict in a Board member's schedule, the Board changed its regular meeting dates for the months of July and August. Meetings were scheduled for Tuesday, July 1, 2003 and Tuesday, August 19, 2003.
- The Board met as a whole twice for the conduct of business during the third quarter. Meetings were held on June 2, 2003 and July 1, 2003. The June meeting was held at the Albany Public Library on Washington Avenue and the July meeting was held at the Albany Community Development Agency on Henry Johnson Boulevard. There was a public comment period at each meeting, and the meetings largely consisted of the review of complaints.
- Aside from its modified schedule for July and August, 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 the remainder of 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 . . ."

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

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 six (6) new complaints in addition to twenty (20) active complaints, seven (7) complaints that had been previously referred to mediation, three (3) complaints that were suspended from review in 2001 and one (1) complaint that was suspended from review in 2002. Monitors were appointed to three (3) of the six (6) new complaints. Of the twenty-six (26) active complaints before the Board, the Board reviewed eleven (11) complaints and rendered findings for all eleven (11) complaints. The following is a summary of those complaints:

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

Nature of Allegation(s): 1) Traffic Stop - the complainant's vehicle was stopped due to the 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 Findings:

1) "Exonerated" as to the allegations regarding the traffic stop; *and*

2) "Not Sustained" as to the use of force allegation.

APD Final

Determination: Pending

CPRB No. 22-02/OPS No. C02-215 [monitor appointed]

Nature of Allegation(s): 1) Dangerous Use of a Gun - an officer exited his vehicle with his gun drawn, "aimed and cocked," and pointed the weapon at the complainant and the complainant's niece;

2) Rudeness - when the complainant inquired about her son's arrest, the complainant was told to "shut up" and told that "no one had to tell [her] anything";

3) Wrongful/Warrantless Arrest in Private Residence - police officers followed the complainant's son into her residence and arrested the complainant's son without an arrest warrant.

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

CPRB Finding: "Unfounded" as to all allegations.

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

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

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

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: Pending

CPRB No. 58-02/OPS No. C02-427 [monitor appointed]

Nature of Allegation(s): 1) Improper Search - the complainant was searched in his home without a search warrant, his door was broken, and the officers harassed his family; *and*  
2) Excessive Use of Force - an officer punched the complainant with a closed fist three times and stomped on the complainant with his boots. The complainant was denied medical attention.

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

2) "Unfounded" as to the excessive use of force allegation.

CPRB Findings: 1) "Exonerated" as to the improper search allegation; *and*  
2) "Unfounded" as to the excessive use of force allegation.

APD Final  
Determination: Pending

CPRB No. 60-02/OPS No. C02-507 [monitor appointed]

Nature of Allegation(s): Misuse of Police Authority - an officer "manufactured" evidence that led to the complainant's indictment, an officer "threatened" the complainant into confessing, and an officer "threatened to beat [the complainant] down."

OPS Preliminary  
Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final  
Determination: "Unfounded."

CPRB No. 66-02/OPS No. C02-548 [monitor appointed]

Nature of Allegation(s): 1) Conduct - the complainant's son was stopped solely because he is black and would have been treated differently if he was white. The back up officers were white and ignored what they were told by the first two officers at the scene;

2) Arrest Authority - the complainant's son was improperly arrested during the incident; *and*

3) Use of Force - the complainant's son was held on the ground by 10 to 12 officers with their feet on his head, neck and back, and the complainant's son was "maced" in the face. Officers pulled the complainant's son to the ground, kned him in the back and neck and hit him in the neck.

OPS Preliminary  
Findings: 1) "Unfounded" as to the conduct allegation;

2) "Exonerated" as to the allegation regarding arrest authority; *and*

3) "Exonerated" as to the use of force allegation.

CPRB Findings:

1) "Unfounded" as to the conduct allegation;

2) "Exonerated" as to the allegation regarding arrest authority; *and*

3) "Exonerated" as to the use of force allegation.

APD Final

Determination: Pending

CPRB No. 1-03/OPS No. C03-04

Nature of Allegation(s):

1) Conduct - the complainant was verbally abused during a traffic stop and was called a "fat a\*s" in front of his wife and son; *and*

2) Improper Stop, Search and Ticketing - the complainant was stopped on two occasions, had his car improperly searched, was given a Breathalyzer for "no apparent reason," and was improperly ticketed for an invalid license and no insurance.

OPS Preliminary Findings:

1) "Not Sustained" as to the conduct allegation; *and*

2) "Exonerated" as to the allegations of improper stop, search and ticketing.

CPRB Findings:

1) "Not Sustained" as to the conduct allegation; *and*

2) "Exonerated" as to the allegations of improper stop, search and ticketing.

APD Final

Determination:

1) "Not Sustained" as to the conduct allegation; *and*

2) "Exonerated" as to the allegations of improper stop, search and ticketing.

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

Nature of Allegation(s): 1) Unlawful/Improper Stop and Search - the 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/improper stop and search allegation; *and*

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

CPRB Findings:

1) "Exonerated" as to the unlawful/improper stop and search allegation; *and*

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

APD Final Determination:

1) "Exonerated" as to the unlawful/improper stop and search allegation; *and*

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

CPRB No. 3-03/OPS No. C03-47 [monitor appointed]

Nature of Allegation(s): Neglect of Duties - an officer failed to take a statement from the complainant's daughter regarding a traffic accident. The officer was "negligent and apparently did not want to be bothered."

OPS Preliminary Finding:

"Exonerated."

CPRB Finding: "Exonerated."

APD Final  
Determination: "Exonerated."

CPRB No. 4-03/OPS No. C03-83 [monitor appointed]

Nature of Allegation(s): 1) Use of Force - an officer pushed the complainant into a snow bank and struck him in the face with a baton; *and*  
2) Unprofessional Conduct/Rudeness - the complainant was treated in a "rude, unhelpful and simply harsh" manner by a supervisor present at the scene.

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

CPRB Finding: "Unfounded" as to all allegations.

APD Final  
Determination: Pending

CPRB No. 10-03/OPS No. C03-153 [monitor appointed]

Nature of Allegation(s): False Arrest - the complainant was falsely arrested for drug possession.

OPS Preliminary  
Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final  
Determination: "Unfounded."

#### OTHER BOARD ACTIONS/REQUESTS/RECOMMENDATIONS

At the Board's February 2002 meeting and in a letter to Public Safety Commissioner John 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 recommendation was made 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 Anthony Bruno of the Office of Professional Standards (OPS) reported that his office was in the process of researching the strip search policies of other jails in the area and had 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 John Nielsen, the Commissioner of Public Safety, in August 2002. A letter following up on this policy was forwarded to the Commissioner on July 8, 2003.

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 OPS 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. A letter following up on this request was forwarded to Commissioner Nielsen on July 8, 2003.

At the Board's February 2003 meeting, the Board recommended that the Commissioner review the police department's policies and procedures with respect to the handcuffing of minors during the execution of a search warrant. This issue was raised during the Board's review of a complaint where the Board learned that the complainant's 12-year-old daughter was detained and handcuffed during the execution of a search warrant in the complainant's home. The Board's written recommendation was forwarded to Commissioner Nielsen on July 8, 2003.

#### GOVERNMENT LAW CENTER

During the third 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:

- Met with Detective Sergeant Kevin Connolly of the Office of Professional Standards and Officer James Teller, President of Council 82, to discuss the reluctance that the Board is experiencing among police officers to agree to participate in mediation to resolve a complaint. Officer Teller was provided with materials compiled by the Center about mediation programs in other cities so that he could undertake his own independent research about mediation.
- Participated in conference call with Todd Burnham, Assistant Corporation Counsel, and the Commissioner of Public Safety, John Nielsen, in which the seven (7) outstanding complaints referred to the Board's Mediation Program were discussed. The Commissioner made a commitment to expedite the status of these complaints. The Commissioner also agreed

to explain the benefits of mediation to the Union leadership and new OPS Commander, Stephen Reilly. The December officer-involved shooting was briefly discussed. The Commissioner agreed to provide a verbal report to the Board at its June meeting.

- Met with Officer James Teller and Detective Sergeant Kevin Connolly to discuss the Union's concerns with respect to the Board's mediation program and ways to improve the program. During the meeting, the following items were identified and discussed: 1) contractual issues and 2) the role of mediation and police officers' rights. Officer Teller extended an offer to Ms. Karlson to meet with the Council 82 Executive Board as well as the police officer rank and file to explain mediation, respond to concerns, and address the benefits of participating in the program.
- Drafted correspondence on the Board's behalf to the Corporation Counsel's Office seeking written opinions with respect to the following: 1) whether the Center was legally permitted to copy Council 82 President James Teller on all correspondence sent to police officers who are the subject of citizen complaints; 2) whether or not a member of the Board could serve on the Board while holding a City or County office; and 3) the process for appealing a Board determination.
- Updated the Board's complaint review and mediation brochures, and community organizations outreach list.
- Created a one-page flyer about the Board, the complaint review process and the mediation program.
- Drafted a meetings brochure, explaining what to expect during a monthly Board meeting.
- Drafted an article for submission to local newsletter publications.

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, 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 and outreach meetings;
- 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 third quarter, which included reviewing nearly half of its active complaints; participating in outreach meetings with the Capital District Gay and Lesbian Community Council and the Center for Law and Justice; 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: August 1, 2003