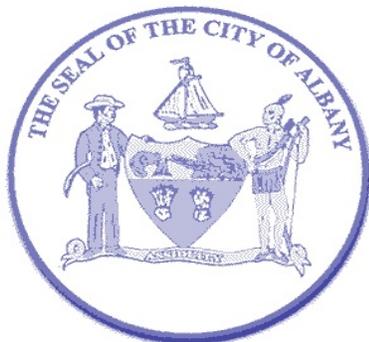


City of Albany

CITIZENS' POLICE REVIEW BOARD

Third Quarterly Report August 1, 2005

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



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

August 1, 2005

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 Chapter 42, Part 33 of the Albany City Code requires the Government Law Center of Albany Law School to file, on behalf of the Albany Citizens' Police Review Board (CPRB), quarterly reports containing "statistics and summaries of citizen complaints, including a comparison of the CPRB's findings with the final determinations of the [Police] Department." This is the third quarterly report so submitted in the year 2005.

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

ORGANIZATION OF THE BOARD

The following members constituted the Board during the third quarter of 2005:

Jason Allen	Judith Mazza
Reverend Beresford Bailey	Herman Thomas
Ronald Flagg	Paul Weafer, Esq.
Barbara Gaige	Michael Whiteman, Esq.
Marilyn Hammond	

During the third quarter, the Board's elected officers were:

Chair	Barbara Gaige
Vice-Chair	Herman Thomas
Secretary	Ronald Flagg

The following committees were operational, with each member serving on at least one committee:

<i>By-Laws and Rules</i>	Paul Weafer (Co-Chair) Michael Whiteman (Co-Chair)
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<i>Community Outreach</i>	Judith Mazza (Chair) Beresford Bailey Ronald Flagg Herman Thomas
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<i>Complaint Review</i>	Judith Mazza (Chair) Jason Allen Beresford Bailey Ronald Flagg Barbara Gaige Marilyn Hammond Herman Thomas Paul Weafer Michael Whiteman
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Mediation Barbara Gaige (Chair)
Jason Allen
Paul Weafer
Michael Whiteman

*Police Department Policy
Review/Recommendations* Jason Allen (Chair)
Marilyn Hammond
Judith Mazza

Public Official Liaison Ronald Flagg (Chair)
Barbara Gaige
Marilyn Hammond

The following occurred during the third quarter of 2005:

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the four (4) appointed members of the Committee on Complaint Review, in addition to the Chair of the Committee, shall be responsible for the presentation of a particular complaint to the Board at its monthly meetings as assigned by the Chair of the Committee. Ten (10) complaints were presented and reviewed in the third quarter of 2005.

The following Board members were appointed to serve on the Committee on Complaint Review:

- May 2005 - Ronald Flagg, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer.
- June 2005 - Barbara Gaige, Marilyn Hammond, Judith Mazza, and Michael Whiteman.
- July 2005 - Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, and Michael Whiteman.

COMPLAINT SUMMARIES AND STATISTICS

Section 42-340(C) of Chapter 42, Part 33 of the Albany City Code charges the Board with providing "statistics and summaries of citizen complaints, including a comparison of [its] findings with the final determinations of the [Police] Department."

During the third quarter of 2005, the Board received ten (10) new complaints in addition to its twenty-one (21) active complaints and five (5) suspended complaints. Monitors were appointed to five (5) of the ten (10) new complaints. Of the thirty-one (31) complaints before the Board, the Board presented ten (10) complaints for review and rendered findings for the allegation(s) contained in seven (7) complaints. Board action was taken on three (3) complaints, and one (1) complaint was suspended from review. The following is a summary of those complaints:

CPRB No. 24-04/OPS No. C04-502 [monitor appointed]

Nature of the Allegation(s): Excessive Use of Force - during his arrest, the complainant was assaulted in the back seat of a patrol vehicle; was dragged out of the vehicle by his feet; and, while still cuffed, the arresting officer drove his knee into the complainant's back, causing his face to "smack" the pavement, and ground the complainant's face into the concrete, causing injury.

OPS Preliminary
Finding:

Exonerated

CPRB Action:

At its May 9, 2005 meeting, the Board received a report from the Office of Professional Standards, following up on the Board's request that OPS interview the complainant and obtain the necessary medical releases and documentation to determine: 1) whether or not a statement made by the complainant during the incident escalated the events; 2) whether or not a pre-existing medical condition was responsible for some of the complainant's alleged behavior; and 3) who the two individuals were who witnessed the events. According to the OPS, the complainant confirmed that he had no pre-existing medical condition responsible for some of his alleged behavior. The complainant also stated that he had no knowledge of two witnesses to the events. Furthermore, the complainant's advocate and mother had not provided the OPS with additional information relating to the allegations contained in the complaint.

Following a request by the complainant's mother, the Board postponed further review and rendering a finding to allow her an opportunity to work with the OPS to locate additional witnesses and provide information in support of the complainant's allegations.

At its June 13, 2005 meeting, no new information was offered to the Board in relation to this complaint.

CPRB Finding:

Exonerated

APD Final
Determination:

Exonerated

CPRB No. 1-05/OPS No. C05-21 [monitor appointed]

Nature of the Allegation(s): Use of Force - during his arrest, the complainant was assaulted by Albany police officers, prior to and after arriving at the downtown station, without regard to his existing injuries.

OPS Preliminary Finding: **Unfounded**

CPRB Finding: **Unfounded**

APD Final Determination: **Unfounded**

CPRB No. 2-05/OPS No. C05-35

Nature of the Allegation(s): 1) Call Handling (Refusal of Medical Treatment at Scene of Incident) - following an altercation with an employee at a Stewart's Shop, the complainant advised the responding officer that he was injured and needed medical attention, but the officer responded "your not going in an ambulance your a*s is going in the paddy wagon"; *and*

2) Call Handling (Refusal of Medical Treatment at Booking) - the complainant made his injuries known at Central Booking, but was ignored.

OPS Preliminary Finding: 1) **Exonerated** as to the allegation that the complainant was refused medical treatment at the scene of the incident; *and*

2) **Not Sustained** as to the allegation that medical treatment was refused at Booking.

CPRB Action: At its June 13, 2005 meeting, the Board tabled review and further deliberation of this complaint following a request made by the complainant's attorney, who indicated that the complainant was expected to be released from incarceration and would like an opportunity to address the Board regarding the complaint.

CPRB No. 4-05/OPS No. C05-63

Nature of the Allegation(s): Call Handling (Improper Stop, Detention, & Questioning) - while walking back to her house after meeting "her significant other," the complainant was improperly stopped, detained, and questioned by Albany police officers.

OPS Preliminary Finding: **Exonerated**

CPRB Action: At its May 9, 2005 meeting, the Board voted unanimously, pursuant to its authority under § 42-323(F)(4) of the City Code, to refer the complaint to the Chief for review and consideration of whether the case would be appropriate for mediation and whether or not the officer(s) would be willing to mediate the complaint.

Correspondence was sent to Chief James Turley on May 31, 2005, referring the complaint to mediation and requesting the Chief's review and consideration.

CPRB No. 8-05/OPS No. C05-93 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures - an Albany police officer "barged" into the complainant's apartment without a warrant and without identifying himself/herself, and arrested the complainant for a piece of radio antennae, stating that it was drug paraphernalia; *and*

2) Use of Force - the complainant was kicked twice by an Albany police officer while being placed into the patrol wagon. While at Booking, the complainant was forced to sit on a stool, handcuffed for five (5) hours and was refused use of the restroom, water, and his medication.

OPS Preliminary Findings: 1) **Exonerated** as to the arrest authority and procedures allegation; *and*

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

CPRB Findings: 1) **Exonerated** as to the arrest authority and procedures allegation; *and*

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

APD Final Determination: 1) **Exonerated** as to the arrest authority and procedures allegation; *and*

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

CPRB No. 9-05/OPS No. C05-135 [monitor appointed]

Nature of the Allegation(s): Arrest Authority & Procedures - the complainant was unlawfully arrested and charged with possession of stolen property - stolen credit cards.

OPS Preliminary Finding: **Exonerated**

CPRB Finding: **Exonerated**

APD Final Determination: **Exonerated**

CPRB No. 12-05/OPS No. C05-201 [monitor appointed]

Nature of the Allegation(s): Call Handling (False Arrest) - the complainant was arrested and falsely charged with an assault, resulting from a 1990 warrant.

OPS Preliminary Finding: **Unfounded**

CPRB Finding: **Unfounded**

APD Final Determination: **Unfounded**

CPRB No. 17-05/OPS No. C05-214 [monitor appointed]

Nature of the Allegation(s): Arrest Authority - the complainant was improperly arrested by the Albany police and falsely accused of kicking a gentleman in the face.

OPS Preliminary Finding: **Unfounded**

CPRB Finding: **Unfounded**

APD Final Determination: **Unfounded**

CPRB No. 18-05/OPS No. C05-213 [monitor appointed]

Nature of the Allegation(s): Arrest Authority/Call Handling - following an altercation, the complainant was approached by two white males, one of whom grabbed the complainant and wrestled with him. When an Albany police officer arrived, the officer told the complainant to “shut up” and get on the ground, but the white male continued to wrestle him, pushing him on top of the officer and causing injury to the officer’s leg. The officer never told the complainant the identity of the white male or the reason “why he felt he had a right to grab” the complainant.

OPS Preliminary Finding: **Unfounded**

CPRB Finding: **Unfounded**

APD Final Determination: **Unfounded**

CPRB No. 23-05

Nature of the Allegation(s): Planted Evidence - an ice-pick has shown up into evidence against the complainant "to try and set [him] up."

CPRB Action: In correspondence to the Board of July 5, 2005, the OPS reported that the complainant was not charged with possession of an ice-pick, although it was seized as part of his arrest. The complainant had filed a previous complaint in relation to this arrest and the OPS investigated the complaint. The CPRB reviewed the complaint at its April 11, 2005 meeting and rendered findings for the allegations contained therein. (*See CPRB No. 3-05/OPS No. C05-57, reported in the First Quarterly Report for 2005*).

At its July 11, 2005 meeting, the Board voted unanimously not to review the complaint and to stand by its findings made with respect to the allegations contained in the complainant's February 7, 2005 complaint regarding the same incident.

MEDIATION

On May 9, 2005, Chairperson Barbara Gaige and Detective Kevin Raducci met briefly to discuss the police union's issues and concerns with the Board's current mediation program, and the union's willingness to actively participate in the reorganization of the program.

On June 27-29, 2005, Lauri Stewart, Mediation Program Director for Independent Police Review (IPR) in Portland, Oregon, facilitated a series of meetings with members of the Board, the Albany Police Department, the City, the police officer unions, staff of the Government Law Center, and the community on best practices in citizen-oversight mediation and IPR's Mediation Program. Ms. Stewart was brought in to consult with the stakeholder groups in an effort to evaluate the Board's Mediation Program. Over the three days, Ms. Stewart participated in fourteen (14) meetings, including a public session, and responded to issues, concerns, and questions about citizen-oversight mediation, IPR's model, and the reorganization of Albany's program. A report of Ms. Stewart's reactions, findings, and recommendations are expected in the fourth quarter.

MEETINGS

The Board met as a whole three times for the conduct of business during the third quarter. Meetings were held on May 9, 2005; June 13, 2005; and July 11, 2005. Two of the three meetings were held at the Albany Public Library, 161 Washington Avenue, in the Large Auditorium. The third meeting was held at Albany Law School, 80 New Scotland Avenue, in the Dean Alexander Moot Courtroom (Room 421). There was a public comment period at each meeting.

The Board meets on the third Monday of every month so as not to conflict with the monthly meetings of the Common Council, and to encourage media and public participation at its meetings.

POLICY REVIEW/REQUESTS/RECOMMENDATIONS

Standing Monthly Meeting with the APD

During the third quarter of 2005, the Police Department Policy Review/Recommendations Committee held two meetings with Chief Turley and Assistant Chief Paula Breen. Meetings were held on May 9, 2005 and July 11, 2005, one hour before the Board's regular monthly meetings. These meetings provided committee members with an opportunity to discuss the Board's ability to access data from the Department relating to calls for service. The following data categories were identified: date, incident number, complaint or call type, number of units responding, badge numbers of police officers, arrests made, if any, and weapons, taser, or pepper spray discharges, if at all. The goal of data collection is to produce standard monthly reports for review by the Board at its regular monthly meetings.

Data Collection

On July 13, 2005, Policy Committee Chair Jason Allen met with Sergeant Eric Kuck and Detective Kathy Hendrick of the Office of Professional Standards, and Lieutenant Burris Beattie from the Albany Police Department's Administrative Services Bureau to discuss ways to obtain data from the Department's Computer Aided Dispatch (CAD) system and Report Management System (RMS). Lt. Beattie forwarded sample CAD data to Chairman Allen consisting of the date, time, zone, location, call time, call type, and incident number relating to calls for service. This information will be used to develop a process for compiling service call information, use of force information, and complaint information.

Standing and Jurisdiction to Review

On July 1, 2005, the Board's officers and the Chair of the Committee on Complaint Review met briefly to discuss two issues that have presented themselves in recent complaint filings: standing as a "complainant" and the Board's authority and jurisdiction in the complaint review process.

TRAINING

Section 42-339 of Chapter 42, Part 33 of the Albany City Code requires that "the Government Law Center . . . provide, to CPRB members, and the members . . . undergo continuing education . . ."

APD Policy

On May 2, 2005, eight members of the Board participated in a policy training session coordinated by the Government Law Center and the Albany Police Department. The session comprised training in four policy areas: use of tasers; use of deadly physical force; vehicle pursuits; and the use of video recording devices in patrol cars. The session included discussion of each policy, its coverage, and any changes or amendments that have been made to the policies. The session also included demonstrations of the use of tasers and video recording devices in patrol cars. Instructors included Assistant Chief Paula Breen, Officer Christian Mesley, and the vendor of the patrol car video-recording devices. Chief James Turley and Sergeant Eric Kuck were in attendance.

New Member Citizens Police Academy

On May 30, 2005, Board member Jason Allen participated in a ride-along.

REPORTS

At its June 13, 2005 meeting, the Board voted unanimously to approve its 2004 Annual Report prepared and submitted by the Government Law Center.

OTHER

On July 8, 2005, members of the Board attended an Albany Police Department swearing in ceremony for eleven (11) new officers at Albany City Hall.

On July 11, 2005, Board members attended a luncheon with the Mayor, Deputy Mayor, Chief, Assistant Chief, and staff of the Government Law Center.

GOVERNMENT LAW CENTER

During the third quarter of 2005, 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 Judith Mazza, the Chair of the Committee on Complaint Review, to discuss meeting assignments, new complaint filings, and outstanding complaints.
- ▶ Responded to a telephone communication from a member of the public alleging she observed an incident of police misconduct. The caller requested the Center to follow-up on a conversation with the OPS to confirm that the incident was being addressed. Placed a follow-up call and reported to the caller that the OPS was in the process of addressing the incident.
- ▶ Responded to several requests for legal assistance directed to the Board. Drafted and forwarded reply correspondence, which included information about legal service providers.
- ▶ Forwarded, to the Board, a copy of correspondence from the Mayor suspending the Board's review of CPRB No. 15-05/OPS No. C05-228.
- ▶ Prepared and forwarded correspondence to the complainant, who filed CPRB No. 15-05/OPS No. C05-228, notifying her of the suspension.
- ▶ Prepared and forwarded the Chair's Report for the July 11, 2005 monthly meeting.
- ▶ Prepared and forwarded the 2005 NACOLE Conference information to the Board, the Albany Police Department, and the Corporation Counsel's Office.
- ▶ Revised and forwarded the 2005 Monthly Meeting Schedule to the Board.

- ▶ Forwarded a copy of correspondence and a promotional flyer to the Board from the Center for Law and Justice regarding the release and distribution of the new and expanded 6th edition of *On Your Own*, a comprehensive resource manual for agencies that work with formerly incarcerated persons, people with criminal convictions, and their families living in the Capital District.

In addition, the Center performed the following administrative tasks:

- ▶ Scheduled and revised the Board's 2005 Monthly Meeting Schedule;
- ▶ Forwarded ride-along contact information to Board members Jason Allen, Beresford Bailey, and Ronald Flagg;
- ▶ Arranged logistics for and coordinated two monthly meetings of the Police Department Policy Review/Recommendations Committee, including securing dates, times, and locations for each meeting, and providing notice to committee members, Chief Turley, and Assistant Chief Breen;
- ▶ 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 regular monthly meeting packets for Board members, including: photocopying complaints, reports, and accompanying documents for review;
- ▶ Prepared a summary of new complaints filed with the Board for presentation by the Chair of the Committee on Complaint Review at each monthly meeting;
- ▶ Prepared findings forms for the recording of Board determinations by members of the Committee on Complaint Review at each monthly meeting;
- ▶ Attended regular monthly meetings and two committee meetings;
- ▶ Reported all activities related to Board business at each monthly meeting;
- ▶ Recorded and transcribed the minutes of each monthly meeting;
- ▶ Notified affected parties of Board findings, recommendations, and requests following each monthly meeting;
- ▶ Conducted a monthly accounting and inventory of complaints filed with the Board, including a summary of active, suspended, and closed complaints, recommendations, and pending requests submitted to the Chief of Police, the Office of Professional Standards, and the Corporation Counsel's Office;
- ▶ Reported monthly complaint accounting and inventory to the Board at each of its third quarter meetings;

- ▶ Assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police, the Office of Professional Standards, and/or the Corporation Counsel's Office;
- ▶ Received and logged in complaints;
- ▶ Opened and closed complaint files;
- ▶ Maintained regular communications with Board members, the Police Department, and the Corporation Counsel's Office; *and*
- ▶ Answered inquiries from the community and the media about the Board and the complaint review process.

CONCLUSION

The Board and its members had an active third quarter, which included holding three regular monthly meetings and two policy committee meetings; consulting with the union and IPR's Mediation Program Coordinator to discuss best practices in citizen-oversight mediation; meeting with the Department to begin developing and compiling service call, force, and complaint data for Board review; participating in a policy training session with the Albany Police Department; and reviewing approximately one-half of its active complaints.

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, 2005