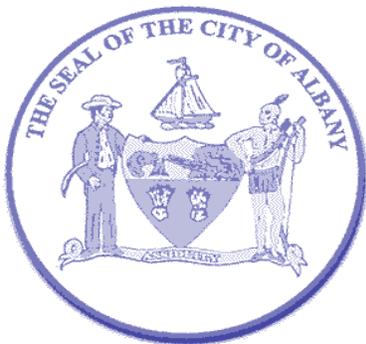


# City of Albany

# CITIZENS' POLICE REVIEW BOARD

## **First Quarterly Report February 1, 2006**

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



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

February 1, 2006

**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 First Quarterly Report so submitted in the year 2006.

## **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 first quarter of 2006:

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

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

Chair	Barbara Gaige
Vice-Chair	Jason Allen
Secretary	Ronald Flagg

### *Appointments*

On January 5, 2006, Mayor Gerald Jennings appointed the Honorable Fowler Riddick as a member of the Board, to fill the seat vacated by former CPRB Vice-Chair Herman Thomas. Legislator Riddick has been appointed to serve a three-year term, which will expire on October 26, 2008.

### *Nominations and Elections for Board Officers*

At the CPRB's December 5, 2005 meeting, nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board's Bylaws (Art. IV, § 1). Barbara Gaige was nominated for the Chair position, Jason Allen was nominated for the Vice-Chair position, and Ronald Flagg was nominated for the position of Secretary. The slate was presented, voted on, and approved unanimously at the Board's January 9, 2006 meeting.

## *Committees and Task Force*

The following committees and task force were operational in the first quarter of 2006:

<i>By-Laws and Rules</i>	Paul Weafer (Co-Chair) Michael Whiteman (Co-Chair)
<i>Community Outreach</i>	Judith Mazza (Chair) Beresford Bailey Ronald Flagg
<i>Complaint Review</i>	Judith Mazza (Chair) Jason Allen Barbara Gaige Marilyn Hammond Paul Weafer Michael Whiteman
<i>Mediation</i>	Barbara Gaige (Chair) Jason Allen Paul Weafer Michael Whiteman
<i>Police Department Liaison - Policy Review/ Recommendations</i>	Jason Allen (Chair) Marilyn Hammond Judith Mazza
<i>Public Official Liaison</i>	Ronald Flagg (Chair) Barbara Gaige Marilyn Hammond
<i>Standing/Complainant</i>	Paul Weafer (Chair) Ronald Flagg Barbara Gaige Michael Whiteman

The following occurred during the first quarter of 2006:

### **COMMUNITY OUTREACH**

In November 2005, the Board began the process of updating its outreach materials and expanding its education and outreach program. Organizations on the complaint form and brochure were contacted to update their contact information, and to confirm that they were still willing to assist complainants in filling out and filing complaint forms. The Board began reviewing its brochure for updates to make it more comprehensive and user-friendly.

The Board mailed and delivered complaint forms to area churches and community

organizations in an effort to increase locations where its complaint forms can be accessed.

## **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. Four (4) complaints were presented and reviewed in the first quarter of 2006.

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

November 2005	Jason Allen, Judith Mazza, Herman Thomas <sup>1</sup> , Paul Weafer and Michael Whiteman.
December 2005	Jason Allen, Barbara Gaige, Marilyn Hammond, Judith Mazza, and Paul Weafer.
January 2006	Jason Allen, Barbara Gaige, Marilyn Hammond, Judith Mazza and Paul Weafer.

On January 31, 2006, Board Chairperson Barbara Gaige and Complaint Review Committee Chairperson Judith Mazza met with Assistant Corporation Counsel Patrick Jordan to discuss several outstanding complaints requiring the advice, guidance, and/or input of the Corporation Counsel's Office. The outstanding complaints discussed included: four complaints filed with the Board in 2001, 2002, and 2004, and suspended from the Board's review; two complaints filed in 2002 that were initially referred to mediation; one complaint filed in 2003 and tabled pending an opinion from the Corporation Counsel's Office; and one complaint filed in 2005 and tabled at the complainant's request.

## **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 first quarter of 2006, the Board received twelve (12) new complaints in addition to its fifteen (15) active complaints and eleven (11) suspended complaints. Monitors were appointed to all of the twelve (12) new complaints. Of the twenty-seven (27) complaints before the Board, the Board presented four (4) complaints for review and rendered findings for the allegation(s) contained in all four (4) complaints. In addition, the Board took action on one

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<sup>1</sup>Herman Thomas' appointment to serve on this committee for the month of November was made before his term expired on October 26, 2005 and with the assumption that he would stay on until his successor was appointed. After the appointment was made, however, Mr. Thomas, notified the Board that he would be unable to serve beyond the expiration of his term.

(1) complaint. The following is a summary of those complaints:

**CPRB No. 10-05/OPS No. C05-172** [monitor appointed]

Nature of the Allegation(s): 1) Unprofessional/Improper Conduct (Use of Vulgar & Obscene Language/Threatened Arrest/Refusal to Give Name & Badge Number) - during an incident involving her son, Albany police officers yelled at the complainant, used obscene and vulgar language, threatened her with arrest, and the arresting officer refused to give his/her name and badge number;

2) Use of Force - the complainant was pushed by an officer during the incident; *and*

3) Unprofessional Conduct (Refusal to Give Name & Badge Number) - an officer identified himself/herself as “Sergeant” and refused to give his/her name and badge number after the complainant’s repeated requests.

OPS Preliminary

Findings:

1) **Unfounded** as to the unprofessional/improper conduct allegation (use of vulgar & obscene language/threatened arrest/refusal to give name & badge number);

2) **Exonerated** as to the use of force allegation; *and*

3) **Not Sustained** as to the unprofessional conduct allegation (refusal to give name & badge number).

CPRB Findings:

1) **Unfounded** as to the unprofessional/improper conduct allegation (use of vulgar & obscene language/threatened arrest/refusal to give name & badge number);

2) **Exonerated** as to the use of force allegation; *and*

3) **Not Sustained** as to the unprofessional conduct allegation (refusal to give name & badge number).

APD Final

Determination:

1) **Unfounded** as to the unprofessional/improper conduct allegation (use of vulgar & obscene language/threatened arrest/refusal to give name & badge number);

2) **Exonerated** as to the use of force allegation; *and*

3) **Not Sustained** as to the unprofessional conduct allegation (refusal to give name & badge number).

**CPRB No. 11-05/OPS No. C05-173** [monitor appointed]

Nature of the Allegation(s): 1) Call Handling (Rude & Unprofessional Conduct) - as Albany police officers were breaking up a house party, one of the officers screamed at the complainant and her friends, telling them to move across the street and shouted “oh Mrs. New York City” to the complainant and started to laugh; *and*

2) Use of Force - an officer, “without warning or reason,” violently pushed her and her friend across the street several times with his club. The complainant observed an officer push an individual with his/her club, search the car of a second individual, and push another individual in the house.

OPS Preliminary

Findings:

1) **Not Sustained** as to the call handling (rude & unprofessional conduct) allegation; *and*

2) **Exonerated** as to the use of force allegation pertaining to the officer’s conduct toward the complainant and her friend. The allegations pertaining to the complainant’s observations were not addressed in these findings.

CPRB Findings:

1) **Not Sustained** as to the call handling (rude & unprofessional conduct) allegation; *and*

2) **Exonerated** as to the use of force allegation pertaining to the officer’s conduct toward the complainant and her friend. The allegations pertaining to the complainant’s observations were not addressed in these findings.

APD Final

Determination:

1) **Not Sustained** as to the call handling (rude & unprofessional conduct) allegation; *and*

2) **Exonerated** as to the use of force allegation pertaining to the officer’s conduct toward the complainant and her friend. The allegations pertaining to the complainant’s observations were not addressed in these findings.

**CPRB No. 16-05/OPS No. C05-205** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - when the complainant went into a patrol station to file a complaint, an Albany police officer refused to take the report, came out from behind the counter and asked her to leave, and when the complainant did not leave, the officer punched her in the face, threw her against the wall and then on the floor, continued to punch her, and two other officers jumped in; *and*

2) Arrest Authority & Procedures - the complainant was arrested for hitting an officer and pointing her pen in the officer's face.

OPS Preliminary Findings:

- 1) **Unfounded** as to the use of force allegation; *and*
- 2) **Exonerated** as to the arrest authority and procedures allegation.

CPRB Findings:

- 1) **Unfounded** as to the use of force allegation; *and*
- 2) **Exonerated** as to the arrest authority and procedures allegation.

APD Final

Determination:

- 1) **Unfounded** as to the use of force allegation; *and*
- 2) **Exonerated** as to the arrest authority and procedures allegation.

**CPRB No. 19-05/OPS No. C05-124** [monitor appointed]

Nature of the Allegation(s): Use of Force - During a stop of the complainant's son and his cousins by Albany police officers, the complainant's son spit around one of the officers and the officer slapped him, grabbed his jaw, and told him to never spit in front of the officer again or the officer would find him in the streets and beat his a\*s.

OPS Preliminary Finding:

**Unfounded**

CPRB Finding:

**Unfounded**

APD Final

Determination:

**Unfounded**

## **CPRB No. 30-05**

Nature of the Allegation(s): Abuse of Authority - Following the commencement of a lawsuit regarding an incident with a Schenectady police officer, police cars have been driving by the complainant's house and slowing down, and the police officer, who is the subject of the litigation, issued the complainant a ticket.

OPS Action: On October 24, 2006, the OPS advised the Board that the complaint would not be investigated because it involved members of the Schenectady Police Department.

CPRB Action: In correspondence to the complainant dated November 10, 2005, the Board advised the complainant that it did not have jurisdiction to review the complaint as it was a complaint against members of the Schenectady Police Department and not against a member or members of the Albany Police Department. The Board forwarded the original complaint to the Chairman of the Schenectady Civilian Police Review Board.

## **MEDIATION**

At its November 14, 2005 meeting, the Board received copies of a report prepared by Lauri Stewart, Mediation Program Director for Independent Police Review (IPR), in Portland, Oregon. Ms. Stewart facilitated a three-day series of meetings with citizen-police oversight stakeholders groups in the City of Albany to discuss best practices in citizen-police oversight mediation and IPR's Mediation Program, and to evaluate the CPRB's Mediation Program. Ms. Stewart's report, entitled, "Citizen-Police Mediation in Albany: Recommendation for Developing a Strong Program," addressed her reactions, findings, and recommendations for a redeveloped CPRB mediation program. Copies of the report were forwarded to all of the mediation meeting participants, including: members of the Board, the Albany Police Department, the City, the police officers' unions, and the community.

## **POLICE DEPARTMENT LIAISON - POLICY REVIEW/RECOMMENDATIONS**

### *Standing Monthly Meeting with the APD*

During the first quarter of 2006, the Police Department Liaison - Policy Review/Recommendations Committee held three regular meetings with members of the Albany Police Department, including former Police Chief James Turley, new Police Chief James Tuffey, and Assistant Police Chiefs Paula Breen and Anthony Bruno. Meetings were held on November 14, 2005, December 5, 2005, and January 9, 2006, one hour before the Board's monthly meeting. These meetings provided an opportunity for committee members and the police department to discuss: policy issues presented in the complaint filed by the Coalition for Accountable Police and Government (CAPG); data collection from the department, including information on calls for service, use of force, racial profiling, and citizen complaints; and a policy statement from the

department regarding its racial profiling policy.

### *Regular Committee Meeting*

A regular meeting of the committee was held on December 2, 2005 to continue its discussion of the policy issues contained in the CAPG's complaint.

### *Meeting of the Chief, CAPG, and Board*

At its December 5, 2005 meeting, the Board voted unanimously, upon agreement of former Chief Turley, to recommend that the Chief and members of the CAPG meet to discuss the issues and concerns raised in the Coalition's complaint. On January 19, 2006, a meeting of new Police Chief James Tuffey, members of the CAPG, Board Chairperson Barbara Gaige, Vice-Chairman Jason Allen, and Board members Beresford Bailey and Judith Mazza was held. The meeting provided an opportunity for the new Chief, members of the CAPG, and members of the Board to discuss the issues raised in the CAPG's complaint.

### *Data Collection*

At the December 5, 2005 meeting, former Police Chief James Turley and one of the Albany Police Department's statisticians gave a presentation to the Board about the way in which the Albany Police Department collects and records race/ethnicity data of those individuals with whom police officers have contact. Chief Turley provided the Board with a sample of the raw data being collected and recorded.

### *Meeting with New Chief*

On December 29, 2005, Board Chairperson Barbara Gaige met with new Police Chief James Tuffey. The meeting was an opportunity for Chairperson Gaige to talk, in more detail, with the new Chief about the CPRB, including its role in reviewing citizen complaints of police misconduct.

## **STANDING/COMPLAINANT**

At the CPRB's November 14, 2005 meeting, a new task force, Task Force on Standing/Complainant, was proposed and formed by Chairperson Barbara Gaige. The new task force was created to study the definition of "complainant" and standing to file a complaint. The following members volunteered, and were appointed, to serve on the Task Force: Barbara Gaige, Ronald Flagg, Paul Weafer, and Michael Whiteman. Mr. Weafer was appointed to chair the Task Force.

The first meeting of the task force was held on December 1, 2005 to discuss the issue of "standing." Committee Chair Paul Weafer, Board Chairperson Barbara Gaige, and Board members Jason Allen and Michael Whiteman were in attendance. Task force members reviewed research prepared by Government Law Center staff, identifying how twenty-two (22) citizen-police oversight agencies from around the country define "complainant," and discussed and exchange different viewpoints on how "standing"/ "complainant" is or should be defined.

## **MEETINGS**

The Board met as a whole three times for the conduct of business during the first quarter. Meetings were held on November 14, 2005, December 5, 2005<sup>2</sup>, and January 9, 2006. Two of the three meetings were held at Albany Law School, 80 New Scotland Avenue, in the Dean Alexander Moot Courtroom (Room 421). The third meeting was held at the Albany Public Library, 161 Washington Avenue, in the Large Auditorium. There was a public comment period at each meeting.

At the CPRB's November 14, 2005 meeting, Chairperson Barbara Gaige added a new item to the Board's monthly meeting agenda. Committee/Task Force Reports, to be given by the Chairpersons and to address the activities of the committees and task forces, will now be included as a regular agenda item.

The Board meets on the second 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.

## **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 . . ."

The NACOLE (National Association for Civilian Oversight of Law Enforcement) Conference was held in Miami, Florida December 11-14, 2005. Chairperson Barbara Gaige, Board member Marilyn Hammond and Government Law Center Senior Staff Attorney Justina Cintrón Perino were in attendance at the conference.

A proposed quarterly training schedule for 2006 was forwarded to Board members.

## **RECOMMENDATION FOR APD TRAINING**

At its November 14, 2005 meeting, the Board recommended training for Albany police officers in how to better handle the type of situation presented in Complaint 16-05/OPS No. C05-205. In its review of this complaint involving an incident at one of the Department's patrol stations, the Board expressed concerns about the officers' handling of the complainant.

The Board noted that the complainant, who appeared to be emotional at the time of the events and may have been agitated, was seeking the assistance of the officers. She was not in the station because she had committed a criminal act. Although the Board believed that the officers may have acted in accordance with Department procedure, the Board felt that the incident should not have escalated to the point of an arrest, and that Albany police officers could benefit from training in methods and techniques to better equip themselves to divert and de-escalate these

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<sup>2</sup>This meeting was rescheduled from December 12, 2005, the calendared date of the Board's regular monthly meeting, to accommodate conflicts in Board members' schedules.

types of situations.

## **REPORTS**

In the first quarter of 2006, Chairperson Barbara Gaige received a draft report prepared by the New York Civil Liberties Union - Capital Region Chapter, regarding police encounters with persons with mental illness. Chairperson Gaige was offered an opportunity to review and comment on the report, which addressed, in part, the CPRB's complaint review process and procedures and ways to provide access to persons with mental illness.

At its November 14, 2005 meeting, the Board received a copy of the Office of Professional Standards' Third Quarterly Report for 2005.

At its December 5, 2005 meeting, the Board voted unanimously to approve its Third Quarterly Report for 2005, prepared and submitted by the Government Law Center.

## **GOVERNMENT LAW CENTER**

During the first quarter of 2006, 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:

- Researched "complainant," "citizen complaint," and "standing" to file a complaint as defined by citizen-police oversight agencies from around the country, including police review board models and police auditor/monitor models. Prepared and forwarded to the Board memoranda, summarizing the Center's research and findings.
- Forwarded to the Board an opinion from Assistant Corporation Counsel Patrick Jordan, regarding the CPRB's authority to review the allegations contained in the complaint filed by the Coalition for Accountable Police and Government.
- Forwarded to the Board correspondence from Assistant Police Chief Steven Krokoff regarding a request made by the complainant's attorney for further investigation of CPRB No. 7-05/OPS No. C05-92.
- Forwarded correspondence and new complaint information to the OPS from the complainant who filed CPRB No. 2-05/OPS No. C05-35.
- Received and forwarded to the Board correspondence from Mayor Jennings, suspending the Board's review of CPRB No. CPRB No. 28-05/OPS No. C05-478, CPRB 29-05/OPS No. C05-551 and CPRB 31-05/OPS No. C05-550.
- Drafted and forwarded correspondence to the complainant who filed CPRB No. 28-05/OPS No. C05-478, notifying him of the suspension of his complaint.
- Drafted and forwarded correspondence to the complainants who filed CPRB 29-05/OPS No. C05-551 and CPRB 31-05/OPS No. C05-550, notifying them that

their complaints have been suspended.

- Received and forwarded to the Board correspondence from Mayor Jennings, appointing the Honorable Fowler Riddick as a member of the Board.
- Drafted and forwarded correspondence to former Chief Turley, confirming that the Chief agreed to make a presentation to the Board about the way in which the Albany Police Department collects and records race/ethnicity data of those individuals with whom police officers have contact, and to provide the Board with a sample of the data being collected and recorded.
- Prepared and forwarded to the OPS, a summary of pending complaints before the Board.
- Drafted and forwarded correspondence and a copy of Lauri Stewart's report to all of the mediation meeting participants, including: members of the Board, the Albany Police Department, the City, the police officers' unions, and the community.
- Forwarded to the Board "Police Encounters with Persons with Mental Illness in the Capital District," a report prepared by the New York Civil Liberties Union - Capital Region.
- Prepared and forwarded a revised copy of the CPRB Contact Schedule for Monitor Assignments for the remainder of 2005.
- Prepared and forwarded to the Board a proposed quarterly training schedule for 2006.
- Forwarded to the Board press clippings regarding the Albany CPRB and the Schenectady CPRB.
- Updated the contact information for the organizations listed on the CPRB's complaint form and brochure.
- Began compiling a list of neighborhood/community groups and organizations, as possible venues for accessing complaint forms.
- Met with Albany Law School's Director of Computer Resources regarding development of the CPRB electronic database.

In addition, the Center performed the following administrative tasks:

- Arranged logistics for and coordinated three regular monthly meetings, including: securing dates, times, and locations for each meeting, and providing notice to the

affected parties and to the public;

- Arranged logistics for and coordinated four Policy Committee meetings, and one Complainant/Standing Task Force meeting, including: securing dates, times, and locations for each meeting, and preparing meeting materials.
- 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 three regular monthly meetings, four committee meetings, and one task force meeting;
- 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;
- Forwarded complainant survey data forms to SUNY;
- 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 first 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;
- Forwarded complainant related correspondence to Board members;

- Updated the Board's website to include new meeting minutes, the quarterly report, and the new meeting schedule;
- 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 had an active first quarter, which included holding three regular monthly meetings, four Policy Committee meetings, and one Complainant/Standing Task Force Meeting; meeting with the new Police Chief and CAPG members regarding their complaint; attending the annual NACOLE Conference; and reviewing 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: February 1, 2006