

# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **Fourth Quarterly Report November 1, 2006**

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



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

November 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 Fourth 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 fourth quarter of 2006:

Jason Allen	Judith Mazza**
Reverend Beresford Bailey*	John Paneto
Daniel Fitzgerald	Andrew Phelan, Jr.
Ronald Flagg	Anthony Potenza
Marilyn Hammond**	Hon. Fowler Riddick
Mauri Davis Lewis	Paul Weafer, Esq.**
James Malatras	Michael Whiteman, Esq.**

*\*resignation effective 9/20/06*

*\*\*term expires 10/26/06*

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

Acting Chair	Jason Allen
Secretary	Ronald Flagg

In correspondence dated June 13, 2006 to the Chairman of the Public Safety Committee of the Albany Common Council, Joseph Scalzo, Jr., Board Chair Barbara Gaige announced her resignation from the Board effective immediately.

On August 16, 2006, City of Albany Mayor Gerald D. Jennings appointed Mauri Davis Lewis as a member of the Board effective October 26, 2006. Board member Lewis has been appointed to serve a three-year term, which will expire on October 26, 2009. On September 26, 2006, Andrew Phelan, Jr. was appointed as a member of the Board by Mayor Jennings and will serve a three-year term, which will expire on October 26, 2009. On October 10, 2006, Daniel Fitzgerald was also appointed as a member of the Board by Mayor Jennings to fulfill the remainder of former member Reverend Beresford Bailey's term. Board member Fitzgerald's term will expire on October 26, 2007.

On October 5, 2006, the Albany Common Council appointed James Malatras, John Paneto, and Anthony Potenza as members of the Board. Board members Malatras and Paneto have been appointed to serve a three-year term, which will expire on October 26, 2009. Board

member Anthony Potenza has been appointed to a two-year term, which will expire on October 26, 2008.

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)
<i>Community Outreach</i>	Judith Mazza (Chair) Rev. Beresford Bailey Ronald Flagg
<i>Complaint Review</i>	Judith Mazza (Chair) Jason Allen Rev. Beresford Bailey Ronald Flagg Marilyn Hammond  Hon. Fowler Riddick Paul Weafer Michael Whiteman
<i>Mediation</i>	Jason Allen (Chair) Paul Weafer Michael Whiteman
<i>Police Department Policy Review/Recommendations</i>	Jason Allen (Chair) Marilyn Hammond Judith Mazza
<i>Public Official Liaison</i>	Ronald Flagg (Chair) Marilyn Hammond
<i>Task Force on Monitors</i>	Jason Allen (Chair) Marilyn Hammond Paul Weafer
<i>Task Force on Standing/Complainant</i>	Paul Weafer (Chair) Ronald Flagg Michael Whiteman

The following occurred during the fourth quarter of 2006:

## **BY-LAWS AND RULES**

At its October 10, 2006 meeting, the Board voted unanimously to amend the quorum required to vote in its By-Laws from seven (7) to five (5) so that it is the same as the quorum required to vote in Section 42-337 of Chapter 42, Part 33 of the Albany City Code.

## **COMMUNITY OUTREACH**

The Board agreed to continue its review of the complaint form and brochure and not make any revisions until the new members are seated.

## **TASK FORCE ON MONITORS**

The Task Force continued looking at ways to expand the monitor pool, developed a job description, qualifications and requirements, and protocol for monitoring and reporting back to the Board. The monitors protocol was forwarded to the Board and the monitors for their input. At its October 10, 2006 meeting, the Board discussed the protocol and agreed to hold off on making any decisions until the new Board members have an opportunity to review it.

## **TASK FORCE ON STANDING/COMPLAINANT**

The Task Force drafted the Standing/Complainant document. On September 22, 2006, Chairman Jason Allen and staff of the Government Law Center met with Chief Tuffey to discuss issues or concerns relating to the draft of the Standing/Complainant document. The Task Force and Chief Tuffey agreed to draft a revision of the document which took into account the Chief's concerns.

At its October 10, 2006 meeting, the Board voted 5-1 in favor of forwarding the document to the appropriate body. The Government Law Center then forwarded the document to Patrick Jordan, Esq., Assistant Corporation Counsel of the City of Albany.

## **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. During the fourth quarter of 2006, the Board appointed six (6) members to the Committee on Complaint Review, in addition to the Chair of the Committee. Fifteen (15) complaints were presented and reviewed in the fourth quarter of 2006. Of the fifteen (15) complaints that were presented and reviewed, monitors were appointed to fourteen (14) complaints.

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

September 2006 - Chairman Jason Allen, Ronald Flagg, Marilyn Hammond, Judith Mazza, Hon. Fowler Riddick, Paul Weafer, Esq., Michael Whiteman, Esq.

October 2006 - Chairman Jason Allen, Ronald Flagg, Marilyn Hammond, Judith Mazza, Hon. Fowler Riddick, Paul Weafer, Esq., and Michael Whiteman, Esq.

## 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 fourth quarter of 2006, the Board received eight (8) new complaints in addition to its thirty-one (31) active complaints and eleven (11) suspended complaints. Monitors were appointed to five (5) of the seven (7) new complaints. Of the thirty-nine (39) complaints before the Board, the Board presented fifteen (15) complaints for review and rendered findings for the allegation(s) contained in thirteen (13) complaints. Board action was taken on two (2) complaints. The following is a summary of those complaints:

### **CPRB No. 32-05/OPS No. C05-574** [monitor appointed]

Nature of the Allegation(s): 1) Unprofessional Conduct (Race-Based Stop) - an officer engaged the complainant in a traffic stop on the basis of his race, claiming he had a warrant issued; *and*

2) Unprofessional Conduct (Disrespectful Behavior) - an officer spoke to the complainant in a sarcastic tone and was disrespectful to him.

OPS Preliminary Finding(s): 1) **Unfounded** as to the unprofessional conduct (race-based stop) allegation; *and*

2) **Not Sustained** as to the unprofessional conduct (disrespectful behavior) allegation.

CPRB Action(s): At its April 10, 2006 meeting, the Board tabled the review of this complaint pending an opportunity for them to consult with Assistant Chief Bruno on the matter<sup>1</sup>.

At its September 14, 2006 meeting, the Board rejected the OPS' preliminary findings by a vote of 6-0 with one recusal and forwarded the investigation to Chief Tuffey for his review.

### **CPRB No. 34-05/OPS No. C05-607** [monitor appointed]

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<sup>1</sup>In correspondence dated April 26, 2006, to the complainant, the Board explained that there was a miscommunication at the April 10, 2006 meeting regarding the reasons for tabling his complaint. The purpose for tabling the complaint was to allow the Office of Professional Standards (OPS) an opportunity to take additional investigative steps regarding the complaint before it was placed on the CPRB's agenda for review.

Nature of the Allegation(s):

- 1) Conduct (Illegal/ Improper Entry) - officers entered the complainant's apartment without her permission; *and*
- 2) Conduct (Harassment) - officers were harassing the complainant and her friend; *and*
- 3) Conduct (Racial Profiling False Arrest) - officers arrested her friend based on racial profiling; *and*
- 4) Arrest Authority & Procedures - officers falsely arrested the complainant's friend.

OPS Preliminary Finding(s):

- 1) **Not Sustained** as to the illegal/improper entry conduct allegation; *and*
- 2) **Unfounded** as to the harassment conduct allegation; *and*
- 3) **Unfounded** as to the racial profiling false arrest conduct allegation; *and*
- 4) **Exonerated** as to the arrest authority and procedures allegation.

CPRB Finding(s):

- 1) **Not Sustained** as to the illegal/improper entry conduct allegation; *and*
- 2) **Unfounded** as to the harassment conduct allegation; *and*
- 3) **Unfounded** as to the racial profiling false arrest conduct allegation; *and*
- 4) **Exonerated** as to the arrest authority and procedures allegation.

\* The Board also voted unanimously to recommend this complaint for mediation when the mediation program takes effect.

APD Final Determination(s):

- 1) **Not Sustained** as to the illegal/improper entry conduct allegation; *and*
- 2) **Unfounded** as to the harassment conduct allegation; *and*
- 3) **Unfounded** as to the racial profiling false arrest conduct allegation; *and*
- 4) **Exonerated** as to the arrest authority and procedures allegation.

**CPRB No. 2-06/OPS No. C06-24** [monitor appointed]

- Nature of the Allegation(s):
- 1) Use of Force - the complainant was pushed by two (2) or three (3) officers who pulled his arms behind his back and struck him twice in the face, cheekbone and mouth; *and*
  - 2) Arrest Authority & Procedures - the officers placed the complainant in the rear of the police car where he was questioned without being read his rights; *and*
  - 3) Call Handling (Improper Handcuffing & Detention of a Minor - the officers placed the complainant's juvenile brother in handcuffs and detained him; *and*
  - 4) Call Handling (Failure to Release Minor to Parent/Guardian) - the officers failed to turn the complainant's brother over to his parents or a guardian.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the use of force allegation; *and*
  - 2) **Exonerated** as to the arrest authority and procedures allegation; *and*
  - 3) **Exonerated** as to the improper handcuffing and detention of a minor call handling allegation; *and*
  - 4) **Sustained** as to the failure to release a minor to a parent or guardian allegation.

- CPRB Finding(s):
- 1) **Exonerated** as to the use of force allegation; *and*
  - 2) **Exonerated** as to the arrest authority and procedures allegation; *and*
  - 3) **Exonerated** as to the improper handcuffing and detention of a minor call handling allegation; *and*
  - 4) **Sustained** as to the failure to release a minor to a parent or guardian allegation.

- APD Final Determination(s):
- 1) **Exonerated** as to the use of force allegation; *and*
  - 2) **Exonerated** as to the arrest authority and procedures allegation; *and*
  - 3) **Exonerated** as to the improper handcuffing and detention of a minor call handling allegation; *and*
  - 4) **Sustained** as to the failure to release a minor to a parent or guardian allegation.

**CPRB No. 3-06/OPS No. C06-52** [monitor appointed]

Nature of the Allegation(s): 1) Excessive Use of Force - during his arrest, the complainant was assaulted by officers; *and*

2) Arrest Authority & Procedures (False Arrest) - the complainant was arrested for no reason.

OPS Preliminary Finding(s): 1) **Exonerated** as to the excessive use of force allegation; *and*

2) **Exonerated** as to the arrest authority and procedures allegation.

CPRB Finding(s): 1) **Exonerated** as to the excessive use of force allegation; *and*

2) **Exonerated** as to the arrest authority and procedures allegation.

APD Final Determination(s): 1) **Exonerated** as to the excessive use of force allegation; *and*

2) **Exonerated** as to the arrest authority and procedures allegation.

**CPRB No. 4-06/OPS No. C06-71** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - five (5) to seven (7) officers used excessive use of force to subdue a man; *and*

2) Unprofessional Conduct (Use of Profanity) - an officer repeatedly stated “ put your f\*\*g hands behind your back” to the man.

OPS Preliminary Finding(s): 1) **Exonerated** as to the use of force allegation; *and*

2) **Not Sustained** as to the use of profanity unprofessional conduct allegation.

CPRB Finding(s): 1) **Exonerated** as to the use of force allegation; *and*

2) **Not Sustained** as to the use of profanity unprofessional conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the use of force allegation; *and*

2) **Not Sustained** as to the use of profanity unprofessional conduct allegation.

**CPRB No. 7-06/OPS No. C06-77** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - an officer grabbed the complainant's daughter by a keychain that was around her neck and grabbed and twisted her arm; *and*

2) Unprofessional Conduct (Use of Profane and Derogatory Language) - an officer cursed and used swear words at her daughter; *and*

3) Unprofessional Conduct (Threatened Arrest) - an officer threatened to arrest the complainant's daughter if she didn't cooperate.

OPS Preliminary Finding(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Unfounded** as to the use of profane and derogatory language allegation; *and*

3) **Not Sustained** as to the unprofessional conduct (threatened arrest) allegation.

CPRB Finding(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Unfounded** as to the use of profane and derogatory language allegation; *and*

3) **Not Sustained** as to the unprofessional conduct (threatened arrest) allegation.

APD Final Determination(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Unfounded** as to the use of profane and derogatory language allegation; *and*

3) **Not Sustained** as to the unprofessional conduct (threatened arrest) allegation.

**CPRB No. 8-06/OPS No. C06-98** [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures (False Arrest) - the complainant was falsely arrested and charged with possession of heroin; *and*

2) Arrest Authority & Procedures (Excessive Search) - the complainant was searched five (5) times; *and*

3) Use of Force - an officer grabbed him from behind in a full nelson, threw him against the wall and mashed his head against the wall; *and*

4) Use of Force - while being strip searched, an officer slapped the complainant in the back of his head; *and*

5) Conduct (Racially Motivated Arrest) - the complainant's arrest was racially motivated because the officers let the other person go.

OPS Preliminary Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the arrest authority and procedures allegation of an excessive search; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Not Sustained** as to the use of force allegation of an officer slapping the complainant in the back of his head; *and*

5) **Unfounded** as to the racially motivated arrest conduct allegation.

CPRB Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the arrest authority and procedures allegation of an excessive search; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Not Sustained** as to the use of force allegation of an officer slapping the complainant in the back of his head; *and*

5) **Unfounded** as to the racially motivated arrest conduct allegation.

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

2) **Exonerated** as to the arrest authority and procedures allegation of an excessive search; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Not Sustained** as to the use of force allegation of an officer slapping the complainant in the back of his head; *and*

5) **Unfounded** as to the racially motivated arrest conduct allegation.

**CPRB No. 12-06/OPS No. C06-189** [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures (False Arrest) - the complainant was falsely arrested for possession of a controlled substance; *and*

2) Arrest Authority & Procedures (Illegal Entry to Residence) - the officers illegally entered the complainant's apartment; *and*

3) Use of Force - officers threw the complainant to the ground; *and*

4) Arrest Authority & Procedures (Evidence Planting) - the officers planted the sale of a controlled substance against the complainant.

OPS Preliminary Finding(s): 1) **Unfounded** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the arrest authority and procedures allegation of illegal entry into apartment; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Unfounded** as to the arrest authority and procedures allegation of the planted sale of a controlled substance.

CPRB Finding(s): 1) **Unfounded** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the arrest authority and procedures allegation of illegal entry into apartment; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Unfounded** as to the arrest authority and procedures allegation of the planted sale of a controlled substance.

APD Final Determination(s): 1) **Unfounded** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the arrest authority and procedures allegation of illegal entry into apartment; *and*

3) **Not Sustained** as to the use of force allegation; *and*

4) **Unfounded** as to the arrest authority and procedures allegation of the planted sale of a controlled substance.

**CPRB No. 14-06/OPS No. C06-197** [no monitor appointed]

Nature of the Allegation(s): 1) Conduct (Illegal/Improper Pat Down Search) - the complainant was searched for no reason; *and*

2) Conduct (Refusal to Allow Entry into Home) - the complainant was not allowed to enter his home to retrieve his ID; *and*

3) Conduct (Refusal to Provide Complaint Form) - when the complainant asked an officer for a civilian complaint form, the officer said “we don’t have any complaint forms here” and “...I don’t know where they are”.

OPS Preliminary Finding(s): 1) **Unfounded** as to the illegal and improper pat down search conduct allegation; *and*

2) **Exonerated** as to the refusal to allow entry into home conduct allegation; *and*

3) **Ineffective Policy or Training** as to the refusal to provide complaint form conduct allegation.

CPRB Finding(s): 1) **Unfounded** as to the illegal and improper pat down search conduct allegation; *and*

2) **Exonerated** as to the refusal to allow entry into home conduct allegation; *and*

3) **Ineffective Policy or Training** as to the refusal to provide complaint form conduct allegation.

APD Final Determination(s): 1) **Unfounded** as to the illegal and improper pat down search conduct allegation; *and*

2) **Exonerated** as to the refusal to allow entry into home conduct allegation; *and*

3) **Ineffective Policy or Training** as to the refusal to provide complaint form conduct allegation.

**CPRB No. 15-06/OPS No. C06-228** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - while fighting with another female, an officer struck the complainant three (3) to four (4) times with an “ASP”; *and*

2) Use of Force - an officer stomped on the complainant’s arm approximately three (3) to four (4) times; *and*

3) Use of Force - an officer pepper sprayed the complainant for no reason; *and*

4) Unprofessional Conduct - an officer was rude to the complainant after the officer pepper sprayed her.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first use of force allegation; *and*  
2) **Unfounded** as to the second use of force allegation; *and*  
3) **Exonerated** as to the third use of force allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

CPRB Finding(s): 1) **Exonerated** as to the first use of force allegation; *and*  
2) **Unfounded** as to the second use of force allegation; *and*  
3) **Exonerated** as to the third use of force allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the first use of force allegation; *and*  
2) **Unfounded** as to the second use of force allegation; *and*  
3) **Exonerated** as to the third use of force allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

**CPRB No. 16-06/OPS No. C06-250** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - an officer punched the complainant on the left side  
of her face; *and*  
2) Use of Force - an officer threw the complainant against a sink;  
*and*  
3) Use of Force - an officer threw the complainant against a wall,

pushed her down the hall, threw her down the inside and outside of the apartment; *and*

4) Use of Force - an officer pepper sprayed the complainant; *and*

5) Use of Force - an officer dragged the complainant to the police wagon.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first use of force allegation; *and*

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

3) **Unfounded** as to the third use of force allegation; *and*

4) **Sustained** as to the fourth use of force allegation; *and*

5) **Unfounded** as to the fifth use of force allegation.

CPRB Finding(s):

1) **Unfounded** as to the first use of force allegation; *and*

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

3) **Unfounded** as to the third use of force allegation; *and*

4) **Sustained** as to the fourth use of force allegation; *and*

5) **Unfounded** as to the fifth use of force allegation.

APD Final Determination(s): 1) **Unfounded** as to the first use of force allegation; *and*

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

3) **Unfounded** as to the third use of force allegation; *and*

4) **Sustained** as to the fourth use of force allegation; *and*

5) **Unfounded** as to the fifth use of force allegation.

**CPRB No. 17-06/OPS No. C06-284** [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures (False Arrest) - the complainant was falsely arrested for a discrepancy with his driver's license; *and*

2) Prisoner's Conduct (Improper Search) - officers took the complainant in the back of the station to be strip searched and the strip search turned into a cavity search; *and*

3) Use of Force - after the complainant was strip searched, the officers assaulted him while he was naked.

OPS Preliminary Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the prisoner's conduct allegation of an improper search; *and*

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

CPRB Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation of false arrest; *and*

2) **Exonerated** as to the prisoner's conduct allegation of an improper search; *and*

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

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

2) **Exonerated** as to the prisoner's conduct allegation of an improper search; *and*

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

**CPRB No. 20-06/OPS No. C06-281** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - after the complainant was arrested, officers beat and kicked him about his body and face; *and*

2) Use of Force - officers tasered the complainant before they beat and kicked him; *and*

3) Conduct - officers read the complainant his Miranda rights an hour after he was arrested.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first use of force allegation; *and*

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

3) **Exonerated** as to the conduct allegation.

CPRB Finding(s):

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

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

3) **Exonerated** as to the conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the first use of force allegation; *and*

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

3) **Exonerated** as to the conduct allegation.

**CPRB No. 21-06/OPS No. C06-260** [monitor appointed]

Nature of the Allegation(s): 1) Conduct (Denied Entry) - an officer told the complainant that he could not enter the club for his own party; *and*

2) Conduct (Arrested for Trespassing) - an officer threatened to arrest the complainant if he didn't leave or if he came back to the club; *and*

3) Use of Force - an officer grabbed the complainant's brother by the arm.

OPS Preliminary Finding(s): 1) **Exonerated** as to the denied entry conduct allegation; *and*

2) **Unfounded** as to the arrested for trespassing conduct allegation; *and*

3) **Unfounded** as to the use of force allegation.

CPRB Finding(s):

1) **Exonerated** as to the denied entry conduct allegation; *and*

2) **Unfounded** as to the arrested for trespassing conduct allegation; *and*

3) **Unfounded** as to the use of force allegation.

APD Final Determination(s): 1) **Exonerated** as to the denied entry conduct allegation; *and*

2) **Unfounded** as to the arrested for trespassing conduct allegation; *and*

3) **Unfounded** as to the use of force allegation.

**CPRB No. 24-06/OPS No. C06-345** [monitor appointed]

Nature of the Allegation(s): Unprofessional Conduct - an off-duty officer in uniform threatened and intimidated the complainant by pounding on her window and screaming obscenities at her following a traffic accident.

OPS Preliminary Finding(s): **Not Sustained**

CPRB Action(s): At its September 14, 2006 meeting, the Board voted unanimously to reject the OPS' preliminary findings and forwarded the investigation to Chief Tuffey for his review.

### **MEDIATION**

On November 10, 2006, Chairman Jason Allen met with former CPRB Board Chairperson Barbara Gaige to discuss the mediation policy agreed upon by the former Board members and the APD's Union.

### **POLICY REVIEW/REQUESTS/RECOMMENDATIONS**

At its October 10, 2006 meeting, Chairman Allen reported that the policy review meetings will resume once the new members are on the Board.

### **PUBLIC OFFICIAL LIAISON**

On August 24, 2006, Chairman Allen met with Albany Common Council Public Safety committee Chair James Scalzo and Common Council member Barbara Smith to discuss posting for new CPRB members.

### **MEETINGS**

The Board met as a whole two times for the conduct of business during the fourth quarter. Meetings were held on September 14, 2006 and October 10, 2006. Both meetings were held at the Albany Public Library, 161 Washington Avenue, in the Large Auditorium. There was a public comment period at each meeting.

The Board meets on the second Tuesday of every month so as not to conflict with the monthly meetings of the County Legislature, 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 . . .”

### New Member Orientation

On October 28, 2006, new Board members Mauri Davis Lewis, Daniel Fitzgerald, James Malatras, John Paneto, Andrew Phelan, Jr. and Anthony Potenza attended and participated in the Board’s orientation program which consisted of three sessions. The first session of the orientation program was coordinated and facilitated by the Government Law Center to educate the six (6) new members about the Board’s organization and operation and included training on the CPRB Legislation; By-Laws and Rules of Procedure; the complaint review process; the Board’s public education and community outreach program; and the role of the Government Law Center as administrative staff; the Open Meetings Law; the Freedom of Information Law; Section 50-a of the New York Civil Rights Law; an introduction on laws relating to Civil Rights violation and excessive use of force; and ethics. The second and third sessions of the orientation program were coordinated and facilitated by the Albany Police Department’s Office of Professional Standards to comprise of training in four policy areas: use of tasers; use of force; vehicle pursuits; and search and seizure. The sessions included discussion of each policy, its coverage, and any changes or amendments that have been made to the policies. Instructors provided the new members with demonstrations on the use of tasers.

Orientation trainers included members of the GLC staff Patricia Salkin, Esq. and Justina Cintron Perino, Esq.; Board member Judith Mazza; former Board member Barbara Gaige; Patrick Jordan, Esq., Assistant Corporation Counsel of the City of Albany; Daniel Stewart, Esq., Brennan & White, LLP; Assistant Chief Anthony Bruno and members of the Albany Police Department.

Ride-alongs for each member will be scheduled to take place in the first and second quarters of 2007.

New member participation in the APD’s Albany Citizen Police Academy is scheduled to take place in the second and third quarters of 2007.

### **REPORTS**

At its October 10, 2006 meeting, the Board voted unanimously to approve its First Quarterly Report for 2006 prepared and submitted by the Government Law Center.

#### **GOVERNMENT LAW CENTER**

During the fourth 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:

- ▶ Attended a meeting on September 22, 2006 with Chief James Tuffey and Chairman Jason Allen to discuss the standing/complainant document.
- ▶ Coordinated and prepared materials for the orientation program for new Board members and scheduled Board member ride-alongs with the Albany Police Department.
- ▶ Forwarded correspondence to the Board regarding the resignation of Reverend Beresford Bailey effective September 30, 2006.
- ▶ Prepared and forwarded correspondence to Mayor Gerald Jennings requesting the appointment of new members to fill the six (6) vacancies left from term expirations and resignations.
- ▶ Drafted and forwarded welcome letters to the new Board members.
- ▶ Forwarded to the Board correspondence from the Mayor and the Common Council regarding the appointments of Mauri Davis Lewis, Daniel Fitzgerald, James Malatras, John Paneto, Andrew Phelan, Jr. and Anthony Potenza to the Board.
- ▶ Forwarded to Board members a survey of NACOLE (National Association for Civilian Oversight of Law Enforcement) members to help NACOLE develop professional standards for the civilian oversight profession and civilian oversight practitioner.
- ▶ Government Law Center Senior Staff Attorney Justina Cintron Perino took an eleven (11) week leave of absence from the Center and the Board effective September 18, 2006. Government Law Center Executive Assistant Sharmaine Moseley assumed primary staffing to the Board until Ms. Perino returns from her leave of absence.
- ▶ Drafted and forwarded letters to the City of Albany's public officials announcing Ms. Perino's leave of absence.
- ▶ At the Board's request, drafted and forwarded correspondence to Mayor Gerald Jennings and Chief James Tuffey regarding CPRB No. 32-05/OPS No. C05-574.
- ▶ Facilitated the return of the Albany Police Department's Standard Operating Procedures (SOP) from former Board members to the Office of Professional Standards (OPS).
- ▶ Forwarded minutes to the OPS of the September 2006 meeting of the Board.
- ▶ Drafted and forwarded correspondence to Chief Tuffey requesting the APD's final determinations for complaints reviewed by the Board.

- ▶ Forwarded correspondence to the Board from Chief Tuffey on the APD's final determinations for complaints reviewed by the Board.
- ▶ Updated and maintained the Board's website.
- ▶ Drafted and forwarded correspondence regarding Freedom of Information Law (FOIL) requests.
- ▶ Prepared memorandum, summarizing monitor assignments for each open and active complaint in the fourth quarter, and forwarded the memo to the OPS, Assistant Chief Bruno, and members of the CPRB.
- ▶ Forwarded the monitors protocol to the Board, monitors and Assistant Chief Bruno for comments.
- ▶ Forwarded the Board's First Quarterly Report to its members, City of Albany public officials and residents.
- ▶ Forwarded to the Board press clippings regarding the Albany CPRB.

In addition, the Center performed the following administrative tasks:

- ▶ Scheduled the meeting between Chairman Allen and Chief Tuffey;
- ▶ Arranged logistics for and coordinated two 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 two regular monthly meetings and a meeting with Chief Tuffey;
- ▶ 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 fourth 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;
- ▶ 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 fourth quarter, which included holding two regular monthly meetings and a couple of meetings regarding mediation and new Board members; participating in the orientation program for new members; and reviewing fifteen (15) 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: November 1, 2006