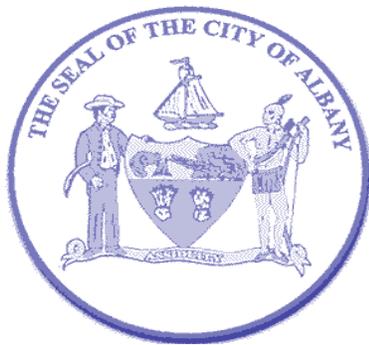


# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **Third Quarterly Report August 1, 2006**

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, 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 third 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 third quarter of 2006:

Jason Allen	Judith Mazza
Reverend Beresford Bailey	Hon. Fowler Riddick
Barbara Gaige ( <i>on leave of absence</i> )	Paul Weafer, Esq.
Ronald Flagg	Michael Whiteman, Esq.
Marilyn Hammond	

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

Acting Chair	Jason Allen
Secretary	Ronald Flagg

In correspondence dated July 18, 2006 to Mayor Gerald Jennings, Board member Reverend Beresford Bailey announced his resignation from the Board effective September 30, 2006.

At the Board's May 18, 2006 meeting, Vice-Chair Jason Allen assumed Chairperson Barbara Gaige's duties as Chair until she returns from her leave of absence or until a new Chair is elected in January 2007 pursuant to the Board's By-Laws.

### *Committees and Task Force*

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)

	Beresford Bailey Ronald Flagg
<i>Complaint Review</i>	Judith Mazza (Chair) Jason Allen Beresford Bailey Ronald Flagg Barbara Gaige Marilyn Hammond Hon. Fowler Riddick Paul Weafer Michael Whiteman
<i>Mediation</i>	Barbara Gaige (Chair) Jason Allen 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) Barbara Gaige 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 Barbara Gaige Michael Whiteman

The following occurred during the third quarter of 2006:

#### **BY-LAWS AND RULES**

The Board agreed to not act on any changes to the By-Laws and Rules of the Board until the complainant/standing issue is resolved, since the resolution may require changes to the By-Laws and Rules of the Board.

#### **COMMUNITY OUTREACH**

The Board continued to receive responses from letters that were sent out to area churches regarding complaint forms. The Government Law Center drafted correspondence, and forwarded

to area churches, copies of complaint forms to have available on site in response to requests. The Board continued revising the CPRB brochure.

## COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the six (6) 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. Nine (9) complaints were presented and reviewed in the third quarter of 2006.

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

May 2006	Beresford Bailey, Ronald Flagg, Marilyn Hammond, Judith Mazza, and Hon. Fowler Riddick.
June 2006	Jason Allen, Beresford Bailey, Ronald Flagg, Judith Mazza, Hon. Fowler Riddick, Paul Weafer, and Michael Whiteman.
July 2006	Jason Allen, Beresford Bailey, Ronald Flagg, Marilyn Hammond, Hon. Fowler Riddick, Paul Weafer 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 2006, the Board received eight (8) new complaints in addition to its thirty-eight (38) active complaints and eleven (11) suspended complaints. Monitors were appointed to six (6) of the eight (8) new complaints. Of the forty-six (46) complaints before the Board, the Board presented nine (9) complaints for review and rendered findings for the allegation(s) contained in eight (8) complaints. Board action was taken on two (2) complaints. The following is a summary of those complaints:

### CPRB No. 20-05/OPS No. C05-232 [monitor appointed]

Nature of the Allegation(s):

- 1) Conduct (Improper Search) - she and another individual were searched for no reason; *and*
- 2) Conduct (Rude/Unprofessional) - an officer told the complainant to shut up and was rude to her; *and*
- 3) Conduct (Unprofessional) - an officer "snatched" her identification out of her hand.

OPS Preliminary Finding(s): 1) **Sustained** as to the allegation that an improper search was conducted; *and*

2) **Not Sustained** as to the allegation that the officer was rude and unprofessional; *and*

3) **Not Sustained** as to the allegation that the officer “snatched” the complainant’s identification out of her hand.

CPRB Finding(s):

1) **Sustained** as to the allegation that an improper search was conducted; *and*

2) **Not Sustained** as to the allegation that the officer was rude and unprofessional; *and*

3) **Not Sustained** as to the allegation that the officer “snatched” the complainant’s identification out of her hand.

APD Final Determination(s): 1) **Sustained** as to the allegation that an improper search was conducted; *and*

2) **Not Sustained** as to the allegation that the officer was rude and unprofessional; *and*

3) **Not Sustained** as to the allegation that the officer “snatched” the complainant’s identification out of her hand.

**CPRB No. 21-05/OPS No. C05-231** [monitor appointed]

Nature of the Allegation(s):

1) Arrest Authority and Procedures - when she came out of her apartment to check on her 4 year old son who was playing in a nearby park, the complainant was arrested for disorderly conduct; *and*

2) Conduct - an officer asked the complainant “what was going down,” and when she said she didn’t know and began walking away, the officer followed her saying, “stop, I’m talking to you,” grabbed her arm, and told her she was under arrest; *and*

3) Conduct - her son was standing in front of her as she was being handcuffed; *and*

4) Call Handling - the officer refused her demand to get someone to get her son from the park and “didn’t one time make sure [her] son was safe.”

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

2) **Unfounded** as to the conduct allegation; *and*

3) **Unfounded** as to the conduct allegation; *and*

4) **Unfounded** as to the call handling allegation.

CPRB Action:

At its May 18, 2006 meeting, the Board voted unanimously, pursuant to its authority under § 42-343(F)(2) of the City Code, to table rendering its findings and requested that the OPS conduct a more thorough and complete investigation of the complaint.

APD Final Determination(s): N/A

**CPRB No. 26-05/OPS No. C05-365** [monitor appointed]

Nature of the Allegation(s):

- 1) Call Handling - while in Dunkin Donuts playing a board game with friends, an officer approached them “looking to make an issue” of the complainant’s conversation with the clerk, who had asked the complainant and his friends to take their game elsewhere; *and*
- 2) Use of Force - the officer, who was “clearly infuriated” by the complainant’s verbal acknowledgment of the officer’s name and badge number, shoved him hard across the room; *and*
- 3) Use of Force - after he regained his balance, the officer shoved him over and over again until they reached the bumper of the officer’s car in the parking lot; *and*
- 4) Conduct - the officer threatened to bash the complainant’s teeth in if he ever talked back again, and threatened to have him locked up or spend the night in jail; *and*
- 5) Conduct - the officer used profanity and an aggressive tone toward the complainant and his friends, and told the complainant that if he came back to Dunkin Donuts he would be arrested on the spot.

OPS Preliminary Finding(s):

- 1) **Unfounded** as to the call handling allegation; *and*
- 2) **Unfounded** as to the use of force allegation that the officer shoved the complainant hard across the room; *and*
- 3) **Not Sustained** as the use of force allegation that the officer shoved the complainant repeatedly; *and*
- 4) **Not Sustained** as to the conduct allegation that the officer threatened to bash the complainant’s teeth in and lock him up or spend the night in jail; *and*
- 5) **Not Sustained** as to the conduct allegation that the officer used profanity and used an aggressive tone toward the complainant and his friends.

- CPRB Finding(s):
- 1) **Unfounded** as to the call handling allegation; *and*
  - 2) **Unfounded** as to the use of force allegation that the officer shoved the complainant hard across the room; *and*
  - 3) **Not Sustained** as the use of force allegation that the officer shoved the complainant repeatedly; *and*
  - 4) **Not Sustained** as to the conduct allegation that the officer threatened to bash the complainant's teeth in and lock him up or spend the night in jail; *and*
  - 5) **Not Sustained** as to the conduct allegation that the officer used profanity and used an aggressive tone toward the complainant and his friends.

- APD Final Determination(s):
- 1) **Unfounded** as to the call handling allegation; *and*
  - 2) **Unfounded** as to the use of force allegation that the officer shoved the complainant hard across the room; *and*
  - 3) **Not Sustained** as the use of force allegation that the officer shoved the complainant repeatedly; *and*
  - 4) **Not Sustained** as to the conduct allegation that the officer threatened to bash the complainant's teeth in and lock him up or spend the night in jail; *and*
  - 5) **Not Sustained** as to the conduct allegation that the officer used profanity and used an aggressive tone toward the complainant and his friends.

**CPRB No. 36-05/OPS No. C05-657** [monitor appointed]

- Nature of the Allegation(s):
- 1) Conduct (Harassment) - Albany police officers are driving past the complainant's house and his job; *and*
  - 2) Conduct (Unprofessional Behavior) - while protesting with a sign, an Albany police officer asked the complainant to stop protesting with a sign or the officer would break it into a thousand pieces and the officer asked the complainant if he was a terrorist.

- OPS Preliminary Finding(s):
- 1) **Unfounded** as to the allegation that harassment was conducted; *and*
  - 2) **Unfounded** as to the allegation that unprofessional behavior was conducted.

- CPRB Finding(s):
- 1) **Unfounded** as to the allegation that harassment was conducted; *and*

2) **Unfounded** as to the allegation that unprofessional behavior was conducted.

APD Final Determination(s): 1) **Unfounded** as to the allegation that harassment was conducted;  
*and*

2) **Unfounded** as to the allegation that unprofessional behavior was conducted.

**CPRB No. 1-06/OPS No. C06-31** [monitor appointed]

Nature of the Allegation(s): 1) Call Handling - during the course of a traffic stop involving the complainant's daughter and the daughter's boyfriend, the complainant alleged that her daughter and daughter's boyfriend were approached by police officers on both sides of the vehicle; the boyfriend was asked to step out of the vehicle and was searched; and the daughter was searched inside the vehicle, asked to step out, and searched outside the vehicle a second time; *and*

2) Call Handling - during the search of her person, the complainant alleged that her daughter was inappropriately touched by the officer both inside and outside the vehicle.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first call handling allegation; *and*

2) **Not Sustained** as to the second call handling allegation.

CPRB Action: At its March 13, 2006 meeting, the Board reviewed and tabled CPRB No. 1-06/OPS No. C06-31 pending an informal mediation between the complainant and Assistant Chief Anthony Bruno. At its April 10, 2006 meeting, the Board tabled rendering a finding on this complaint pending any final communications between Assistant Chief Bruno, the complainant and her family. At its May 18, 2006 meeting, the Board rendered its findings and closed CPRB No. 1-06/OPS No. C06-31 because the informal mediation had taken place.

CPRB Finding(s): 1) **Exonerated** as to the first call handling allegation; *and*

2) **Not Sustained** as to the second call handling allegation.

APD Final Determination(s): 1) **Exonerated** as to the first call handling allegation; *and*

2) **Not Sustained** as to the second call handling allegation.

**CPRB No. 5-06/OPS No. C06-82** [monitor appointed]

Nature of the Allegation(s): Conduct (Use of Force) - the complainant witnessed six members of the Albany Police Department aggressively tackle a man to the ground; the man verbally complied with the officers, but the officers

continued using aggressive force and profanity toward the man; and the man let out a cry of pain, went silent, and was not moving or speaking when he was placed on a stretcher.

OPS Preliminary Finding(s): **No Finding** as to the allegation that use of force was conducted.

CPRB Finding(s): **No Finding**<sup>1</sup> as to the allegation that use of force was conducted.

APD Final Determination(s): **No Finding** as to the allegation that use of force was conducted.

**CPRB No. 6-06/OPS No. C06-85** [monitor appointed]

Nature of the Allegation(s): 1) Conduct (Improper Handcuffing, Search, and Detention) - for no reason, the complainant's son was handcuffed, searched, and placed in a police car; *and*

2) Conduct (Intimidating Behavior/Threat of Arrest) - an officer "approached [the complainant] in a threatening manner, screaming, pointing [his/her] finger" in her face, ordered the complainant to get up on the porch, and threatened her with arrest; *and*

3) Conduct (Harassment) - this incident is the third time in six or seven months that her son has been harassed by the Albany Police Department, which the complainant believes is because he is black.

OPS Preliminary Finding(s): 1) **Exonerated** as to the allegation that improper handcuffing, search and detention was conducted; *and*

2) **Not Sustained** as to the allegation that intimidating behavior and threat of arrest was conducted; *and*

3) **Unfounded** as to the allegation of harassment.

CPRB Finding(s): 1) **Exonerated** as to the allegation that improper handcuffing, search and detention was conducted; *and*

2) **Not Sustained** as to the allegation that intimidating behavior and threat of arrest was conducted; *and*

3) **Unfounded** as to the allegation of harassment.

APD Final Determination(s): 1) **Exonerated** as to the allegation that improper handcuffing, search and detention was conducted; *and*

2) **Not Sustained** as to the allegation that intimidating behavior and threat of arrest was conducted; *and*

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<sup>1</sup> The complainant withdrew his/her complaint, so pursuant to Chapter 42, Part 33 of the Albany City Code, the Board rendered a finding of **No Finding**.

3) **Unfounded** as to the allegation of harassment.

**CPRB No. 9-06/OPS No. C06-127** [monitor appointed]

Nature of the Allegation(s): 1) Call Handling (Fabricated Statement) - detectives fabricated information given by the complainant in an oral statement; *and*  
2) Call Handling (Fabricated Signature) - the signature on the incident report was that of an unknown officer, not the officer to whom the statement was given/taken, and the signature on page 1 of the statement was altered.

OPS Preliminary Finding(s): 1) **Unfounded** as to the call handling allegation that the information given by the complainant was fabricated; *and*  
2) **Unfounded** as to the call handling allegation that the signature on the incident report was that of an unknown officer and the signature on page 1 of the statement was altered.

CPRB Finding(s): 1) **Unfounded** as to the call handling allegation that the information given by the complainant was fabricated; *and*  
2) **Unfounded** as to the call handling allegation that the signature on the incident report was that of an unknown officer and the signature on page 1 of the statement was altered.

APD Final Determination(s): 1) **Unfounded** as to the call handling allegation that the information given by the complainant was fabricated; *and*  
2) **Unfounded** as to the call handling allegation that the signature on the incident report was that of an unknown officer and the signature on page 1 of the statement was altered.

**CPRB No. 13-06/OPS No. C06-188** [monitor appointed]

Nature of the Allegation(s): 1) Conduct (False Arrest) - officers apprehended and falsely arrested the complainant; *and*  
2) Conduct (Illegal Search Warrant) - the arrest was based upon an “illegal search warrant[,] which was obtained by false reports and evidence.”

OPS Preliminary Finding(s): 1) **Exonerated** as to the allegation that a false arrest was conducted; *and*  
2) **Unfounded** as to the allegation that an illegal search warrant was used in the arrest.

CPRB Finding(s): 1) **Exonerated** as to the allegation that a false arrest was conducted; *and*

2) **Unfounded** as to the allegation that an illegal search warrant was used in the arrest.

APD Final Determination(s): 1) **Exonerated** as to the allegation that a false arrest was conducted;  
*and*

2) **Unfounded** as to the allegation that an illegal search warrant was used in the arrest.

## **MEDIATION**

Former Chairperson Barbara Gaige, Chief James Tuffey and Assistant Chief Anthony Bruno remained committed to working together on a mediation model that will encourage complainants and officers to use it.

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

### *Standing Monthly Meeting with the APD*

During the third quarter of 2006, the Police Department Policy Review/Recommendations Committee Chair agreed to suspend the monthly meetings of the policy review committee pending receipt of an opinion from Corporation Counsel regarding committee meetings and training sessions of the Board. The standing monthly meeting was subsequently suspended pending the Albany Police Department's (APD) review and revision of its Standard Operating Procedure. The meeting will commence once the APD is ready to discuss changes.

### *Data Collection*

At its May 18, 2006 meeting, the Board discussed how they should move forward with researching a best practice in collecting and interpreting race/ethnicity data of those individuals with whom police officers have contact. The Government Law Center agreed to canvass best practices amongst the civilian oversight agencies in the country.

## **TASK FORCE ON MONITORS**

The Task Force developed a strategy to address and enhance the monitors requirements for the Board. This strategy consists of developing job qualification requirements, identifying what it takes to be a monitor, determining the process of advertising openings, identifying the process for approving new monitors and discussing monitor training.

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

The Task Force met with Chief James Tuffey and reached an understanding as to how the standing document should be drafted. The Board is making progress in this area.

## **MEETINGS**

The Board met as a whole two times for the conduct of business during the third quarter.

Meetings were held on May 18, 2006 at the Albany Public Library, 161 Washington Avenue in the Large Auditorium and on June 13, 2006 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.

At its May 18, 2006 meeting, the Board voted in favor of changing its monthly meetings from the second Monday to the second Tuesday of every month so as not to conflict with the monthly meetings of the County Legislature. The meeting time remains 6:00 p.m. and meetings will continue to be held at the Albany Public Library located at 161 Washington Avenue.

At its June 13, 2006 meeting, the Board voted in favor of changing its summer meeting schedule from the Board holding its monthly meetings during July and August to the Board not meeting during July and August unless an emergency occurs or if there is a specific need to meet.

## **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 Board is working with the Government Law Center to develop a training schedule which would include ride-alongs and any other relevant training.

## **GOVERNMENT LAW CENTER**

During the third 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:

- ▶ Met with Acting Chair Jason Allen, to discuss job description, qualifications and method of job posting for monitors.
- ▶ Drafted for the Board, a chart detailing number of complaints filed by witnesses.
- ▶ Responded to several requests for legal assistance directed to the Board. Drafted and forwarded reply correspondence, which included information about legal service providers.
- ▶ Received and forwarded to the Board, correspondence from Corporation Counsel’s office which addressed the Board’s request for a written opinion to the legal requirements and the Board’s responsibilities under the state and local law with respect to the conduct of its meetings, including committee meetings.
- ▶ Prepared and forwarded correspondence about the complaint review process to a member of the public.
- ▶ Researched and forwarded to the Board, a memorandum summarizing the Center’s findings on best practices in racial profiling studies.

- ▶ Forwarded to Assistant Chief Bruno, correspondence from the Board for further investigation of CPRB No. 21-05/OPS No. C05-231.
- ▶ Forwarded to the Board, correspondence from complainant responding to the Board's findings of CPRB No. 7-05/OPS No. C05-92.
- ▶ Forwarded to the Board, correspondence from complainant regarding CPRB No. 17-06.
- ▶ Prepared and forwarded the 2006 NACOLE Conference information to the Board.
- ▶ Revised and forwarded the 2006 Monthly Meeting Schedule to the Board.
- ▶ Drafted and forwarded correspondence approved by the Board to the Mayor and the President of the Common Council, requesting that they consider candidates to replace those members of the Board who are resigning and/or whose terms are expiring in October 2006.
- ▶ Received a copy of the Office of Professional Standard's 2006 First Quarter Report.
- ▶ At the request of the Common Council, prepared a Board member attendance record for 2006 and forwarded complaint forms to the Council.

In addition, the Center performed the following administrative tasks:

- ▶ Scheduled and revised the Board's 2006 Monthly Meeting Schedule;
- ▶ 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 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 word processing 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 had an active third quarter, which included reviewing nine (9) of its 38 active complaints; holding two regular monthly meetings; continuing its efforts on developing a strategy for monitor protocols; and meeting with Albany Police Chief Tuffey regarding drafting the standing/complainant document.

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, 2006