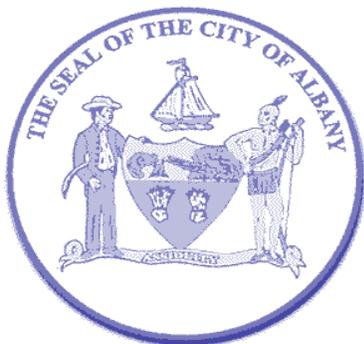


City of Albany

CITIZENS' POLICE REVIEW BOARD

Annual Report 2005

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



Fifth Annual Report of the City of Albany
Citizens' Police Review Board

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

In July 2000, legislation creating the City of Albany Citizens' Police Review Board (the "Board") was signed into law, adding part 33 to Chapter 42 (Departments and Commissions) of the Code of the City of Albany. The purpose of this legislation was to create an independent review body to review and comment on completed investigations of complaints made by citizens against officers of the City of Albany Police Department for alleged misconduct; and its goals were to improve communication between the Police Department and the community, to increase police accountability and credibility with the public, and to create a complaint review process that is free from bias and informed of actual police practices.

INTRODUCTION

In a unique arrangement, 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. Among the services to be provided, § 42-340 of the legislation requires that the Government Law Center "file annual reports with the Common Council and the Mayor[,] which contain statistics and summaries of citizen complaints, including a comparison of the [Board's] findings with the final determinations of the [Police] Department" on behalf of the Board. This is the Fifth Annual Report so submitted, covering the Board's operations from November 1, 2004 to October 31, 2005.

ORGANIZATION OF THE BOARD

The Board is comprised of nine members, five members appointed by the Common Council, and four members appointed by the Mayor, who serve for three-year staggered terms. In selecting the members of the Board, the legislation provides that the Common Council and the Mayor shall endeavor to reflect community diversity in their appointments, and requires that members of the Board reside in the City of Albany; possess a reputation for fairness, integrity, and responsibility; have a demonstrated interest in public affairs and services; and neither be an officer or employee nor a relative of an officer or employee of the City of Albany.

The following members constituted the Board during its fifth year of operation:

Jason Allen Term Expires: 10/26/2008	Reverend Beresford Bailey Term Expires: 10/26/2007
Ronald Flagg Term Expires: 10/26/2007	Barbara Gaige Term Expires: 10/26/2008
Marilyn Hammond Term Expires: 10/26/2006	Judith Mazza Term Expires: 10/26/2006
Herman Thomas Term Expires: 10/26/2005	Paul Weafer, Esq. Term Expires: 10/26/2006
Michael Whiteman, Esq.	

Term Expires: 10/26/2006

New Member Orientation Program

According to § 42-339 of the legislation, “[c]ompletion of the orientation program concerning the goals, powers, and procedures of the [Board] is required before a member may participate as a voting member. In addition, graduation from the Albany Police Department’s Citizen Police Academy . . . within six months of the start of the member’s term is required.”

In November and December of 2004, new Board members Jason Allen, Reverend Beresford Bailey, and Ronald Flagg, and Board members Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer attended and participated in the Board’s orientation program, comprising two three-hour training sessions. The first three-hour session 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. In the second three-hour session, new members received training on the Open Meetings Law, the Freedom of Information Law, and Section 50-a of the New York Civil Rights Law; the Albany Police Department’s internal affairs function - the duties and responsibilities of the Office of Professional Standards; and the role of the Board’s monitors/investigators in the process of complaint review.

The orientation program was coordinated and facilitated by the Government Law Center to educate the three new members about the Board’s organization and operation and included training on the goals, powers, and procedures of the Board as required by Section 42-339 of Chapter 42, Part 33 of the Albany City Code. Orientation trainers included members of the GLC staff; members of the Board; Robert Freeman, Esq., Executive Director of the New York State Committee on Open Government; Detectives Arthur Shade and Kathy Hendrick of the Office of Professional Standards; and Board monitors/investigators Richard Lenihan and Albert Lawrence, Esq.

New Member Citizen Police Academy

On January 24, 2005, new Board members Jason Allen, Reverend Beresford Bailey, and Ronald Flagg attended the first of four three-hour citizen police academy training sessions. The session included an overview of the Albany Police Department, including its command structure. A special session of the citizen police academy was coordinated by Assistant Chief Paula Breen to assist these new members in complying with the requirements of Section 42-339 of Chapter 42, Part 33 of the Albany City Code. The remaining three special sessions of the Academy are scheduled for February 7th, April 4th, and April 25th of 2005.

Officers

During its fifth year of operation, the Board’s officers were:

Beginning November 1, 2004 and ending January 10, 2005

Acting Chair Herman Thomas

Secretary Michael Whiteman, Esq.

Beginning January 11, 2005

Chair Barbara Gaige
Vice-Chair Herman Thomas
Secretary Ronald Flagg

At the CPRB's December 13, 2004 meeting, the following Board members were nominated, pursuant to Article IV, Section 1 of the Board's By-Laws, for positions as Board officers: Barbara Gaige as Chair, Herman Thomas as Vice-Chair, and Ronald Flagg as Secretary.

At the CPRB's January 10, 2005 meeting, the Board held an election for new Board officers pursuant to Article IV, Section 1 of the Board's By-Laws. Barbara Gaige was elected Chair, Herman Thomas was elected Vice-Chair, and Ronald Flagg was elected Secretary.

Committees

In November 2004, as part of the CPRB's organizational training session, a new committee structure was established, which included the creation of the Mediation Committee and the merger of the Police Department Liaison Committee with the Policy Review/Recommendations Committee to form the Police Department Policy Review/Recommendations Committee. During the session, committee membership and works in progress were identified.

The following is the new CPRB committee structure. Each committee was operational during the fifth year:

By-Laws and Rules Paul Weafer (Co-Chair)
Michael Whiteman (Co-Chair)

Works in Progress: The Committee will initiate review of the Common Council's proposed amendments to the CPRB legislation and the development of draft procedures for Board monitors/investigators.

Community Outreach Judith Mazza (Chair)
Beresford Bailey
Ronald Flagg
Herman Thomas

Works in Progress: The Committee will work to update the CPRB's outreach materials and expand the Board's outreach program.

Complaint Review Judith Mazza (Chair)
Jason Allen
Beresford Bailey
Ronald Flagg
Barbara Gaige

Marilyn Hammond
Herman Thomas
Paul Weafer
Michael Whiteman

Mediation

Barbara Gaige (Chair)
Jason Allen
Paul Weafer
Michael Whiteman

Works in Progress: The Committee will review best practices in citizen-police oversight mediation from successful mediation programs across the country, and develop a procedure, with the Police Department and the Union, for mediating citizen complaints in the City of Albany.

*Police Department Policy
Review/Recommendations*

Jason Allen (Chair)
Marilyn Hammond
Judith Mazza

Works in Progress: The Committee will identify categories of statistics that the CPRB would like to receive from the Albany Police Department, and review Albany Police Department (APD) policies regarding vehicle pursuits, the use of tasers, and the use of cameras in patrol cars.

Public Official Liaison

Ronald Flagg (Chair)
Barbara Gaige
Marilyn Hammond

BY-LAWS AND RULES

On January 19, 2005, Board members Jason Allen, Barbara Gaige, and Judith Mazza met to review the Common Council's proposed changes to the CPRB Legislation.

On January 25, 2005, five members of the Board and a member of the GLC staff attended a meeting of the Common Council's Public Safety Committee, where the Committee's proposals for changes to the Board's legislation were discussed.

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 regular, monthly meetings, as assigned by the Chair of the Committee.

Eleven (11) complaints were presented and reviewed in the first quarter; nine (9) complaints were presented and reviewed in the second quarter; ten (10) complaints were presented

and reviewed in the third quarter; and five (5) complaints were presented and reviewed in the fourth quarter.

The following Board members were appointed to serve on the Committee in the fifth year of operation:

<i>November 2004</i>	Barbara Gaige, Marilyn Hammond, Herman Thomas, Paul Weafer, and Michael Whiteman.
<i>December 2004</i>	Jason Allen, Ronald Flagg, Barbara Gaige, Marilyn Hammond, Judith Mazza, and Herman Thomas.
<i>January 2005</i>	Jason Allen, Beresford Bailey, Ronald Flagg, Barbara Gaige, and Michael Whiteman.
<i>February 2005</i>	Jason Allen, Beresford Bailey, Ronald Flagg, Barbara Gaige, Judith Mazza, and Michael Whiteman.
<i>March 2005</i>	Beresford Bailey, Marilyn Hammond, Judith Mazza, Paul Weafer, and Michael Whiteman.
<i>April 2005</i>	Beresford Bailey, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer.
<i>May 2005</i>	Ronald Flagg, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer.
<i>June 2005</i>	Barbara Gaige, Marilyn Hammond, Judith Mazza, and Michael Whiteman.
<i>July 2005</i>	Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, and Michael Whiteman.
<i>August 2005</i>	Beresford Bailey, Ronald Flagg, Barbara Gaige, Paul Weafer, and Michael Whiteman.
<i>September 2005</i>	Beresford Bailey, Ronald Flagg, Barbara Gaige, Paul Weafer, and Michael Whiteman.
<i>October 2005</i>	Jason Allen, Judith Mazza, Herman Thomas, Paul Weafer, and Michael Whiteman.

COMPLAINT REVIEW: SUMMARIES AND STATISTICS

Number of Complaints Filed

During its fifth year of operation (November 1, 2004 to October 31, 2005), the Board

received a total of thirty-one (31) complaints. (See Figure 1). Two (2) of the thirty-one (31) complaints filed in the fifth year were filed by the same party and alleged the same misconduct.

The Board received an average of two (2) complaints per month from November 2004 to October 2005. In the months of February, April, and May 2005, however, there was a noticeable increase in the number of complaints filed with and received by the Board. An average of six (6) complaints were received in each of these months. These complaints included those filed with the Board directly (filed either in person, by regular U.S. mail, or via facsimile) and those filed with the Board through the Office of Professional Standards (OPS).

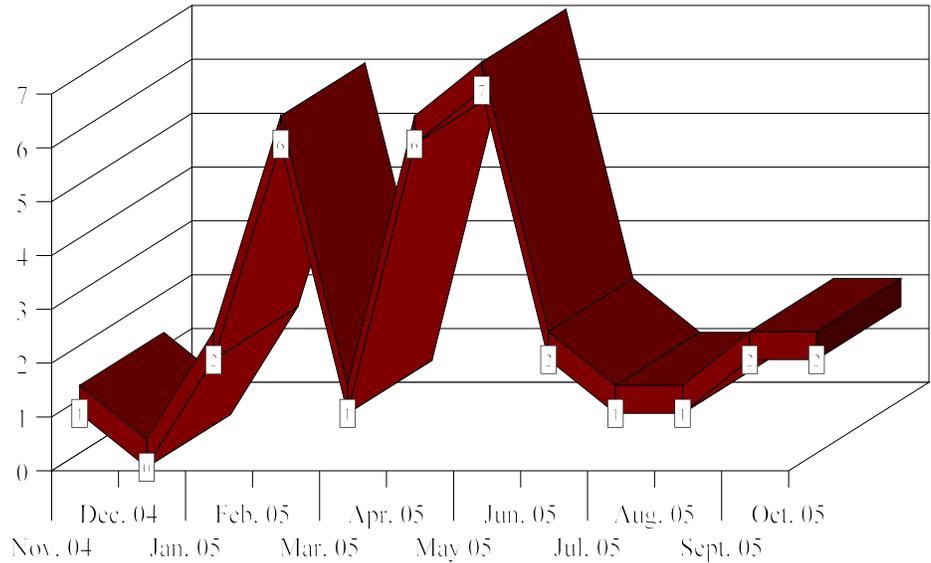


Figure 1: Monthly breakdown of complaints filed November 1, 2004 to October 31, 2005 - Total 31.

Appointment of Monitors

Under § 42-343(B)(1) of the legislation, the Board is required to appoint an individual to observe and monitor the Office of Professional Standards’ investigation of a complaint “in the event the complaint alleges use of force or a violation of civil rights.” Of the thirty-one (31) complaints filed in the fifth year, the Board appointed a monitor to observe the OPS’s investigation of twenty-four (24) complaints.

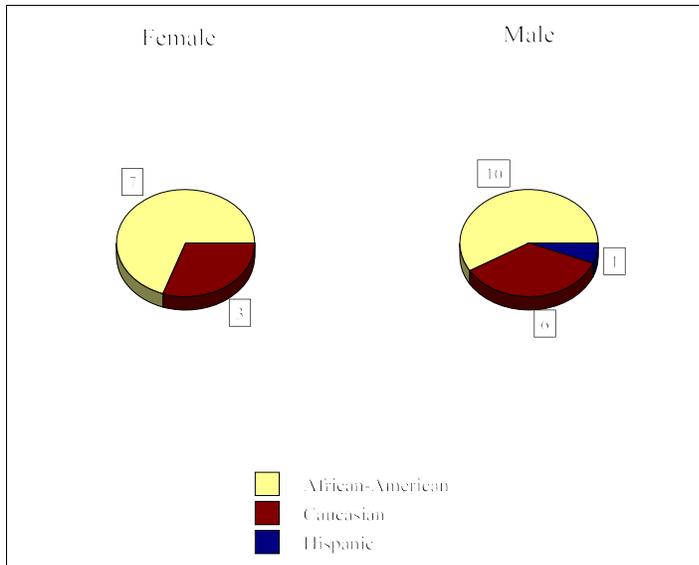


Figure 2: Race/Ethnicity and Gender of the Complainant

Race/Ethnicity and Gender of the Complainant and the Officer(s)

Complainants who file a Citizen Complaint Form with the Board may, at their option, include information relating to their race/ethnicity and gender. Where the complainant chooses not to include this optional information, race/ethnicity and gender may be ascertained and/or identified from the complainant’s name or indicated by language contained in the complaint form, the Office of Professional Standards’ preliminary report, and/or the report of the monitor, if a monitor was assigned to the complaint.

Of the thirty-one (31) complaints filed with the Board in the fifth year, information regarding the race/ethnicity and/or gender of the complainant(s) could be identified and/or ascertained as to all 31. There were thirty-four (34) identified complainants in these thirty-one (31) complaints, comprising: seven (7) African-American females; ten (10) African-American males; three (3) Caucasian females; six (6) Caucasian males; and one (1) Hispanic male. (See Figure 2).

Seven (7) complainants either submitted a written complaint not using the Citizen Complaint Form or choose not to submit information regarding their race/ethnicity or gender. However, the gender of these seven (7) complainants, six (6) males and one (1) female, was determined from the complainant's name or was indicated by language contained in the complaint form, the Office of Professional Standards' preliminary report, and/or the report of the monitor, if a monitor was assigned to the complaint.

In addition to the optional section provided for complainants, the Citizen Complaint Form provides a section for the complainant to enter descriptive information about the officer who is, or the officers who are, the subject of the complaint. In this section, the complainant is asked to provide race/ethnicity and gender information about the officer(s), if known. Thirty-eight (38)¹ police officer descriptions, including race/ethnicity and gender, were included within the thirty-one (31) complaints filed with the Board in the fifth year. Fifteen (15) police officer descriptions, however, were redacted by the Office of Professional Standards. Of the fifteen (15) police officer descriptions that were redacted, the gender of seven (7) officers, six (6) male and one (1) female, was determined from the language contained in the complaint. Five (5) descriptions identified the police officers as Caucasian males. Descriptions for eighteen (18) police officers were either not included or the information was unknown. However, the gender of eight (8) of these officers, all male, was determined from the language contained in the complaint.

Allegations Contained in the Complaints

In the fifth year of operation, fourteen (14) of the thirty-one (31) complaints filed with the Board contained a single allegation of misconduct against an officer or officers of the Albany Police Department. Seventeen (17) complaints contained multiple allegations, with a majority of these complaints averaging two misconduct allegations. Figure 3 illustrates the allegations made in the thirty-one (31) complaints filed with the Board. Given that just under two thirds (2/3) of these complaints contained more than one allegation, the total number of allegations made is not equal to the number of complaints filed with the Board.

Seventy-three (73) allegations were made in the thirty-one (31) complaints filed with the Board in the fifth year. Of the seventy-three (73) allegations, the Board identified seventeen (17) categories of allegations. Fourteen (14) subcategories of allegations were also identified, three (3) of which fell under the category of Abuse of Authority, one (1) of which fell under the category of Improper Handling of Personal Property, four (4) of which fell under the category of Neglect of Official Duties, three (3) of which fell under the category of Unprofessional Conduct, and three (3) of which fell under the category of Use of Force. In identifying these categories and subcategories of allegations, the Board accounted for the complainant's own classification of the allegations contained in his or her complaint.

¹It should be noted that the Board is not privy to any information that would identify the officers who are the subject of a citizen complaint. Therefore, it not known whether these thirty-eight (38) police officer descriptions are of 38 different officers or are of a number of the same officers.

Slightly less than ten percent (10%) of the allegations identified in the complaints filed with the Board were classified as searches and seizures. Searches were characterized as either illegal, improper, and unlawful and included pat-frisk searches of the complainant's person, searches of the complainant's personal property, searches of private residences, and vehicle searches. Seizures included seizures of personal property.

Figure 3: Allegations Contained in Complaints Filed - Total 73

Abuse of Authority	3
Evidence Tampering	1
Threatened Arrest	2
Threatened Physical Force	2
Denied Access to Dying Spouse	1
False/Illegal/Improper/Unlawful Arrest	8
Illegal/Improper/Unlawful/ Search	6
Illegal/Improper/Unlawful Seizure	1
Illegal/Improper/Unlawful Stop	2
Illegal/Improper/Unlawful Ticketing in Retaliation	1
Illegal/Improper/Unlawful Detention	2
Illegal/Improper/Unlawful Entry into Private Residence	1
Improper Handling of Personal Property	1
Items Missing	1
Improper Questioning	1
Neglect of Official Duties	
Failure to Ensure/Endanger Safety of Minor	2
Failure to Give Miranda Warnings/Fingerprint	2
Failure/Refusal to Provide Information	2
Unsafe Vehicle Operation	1
Negligence	1
Refused Medical Treatment	1
Unprofessional Conduct	2
Racial Bias	1
Failure/Refusal to Give Name and Badge Number	3
Rude	3

Derogatory/Inappropriate/Profane/Offensive/Vulgar/ Racially-Biased Language	4
Use of Force	9
Excessive Use of Force	7
Improper Use of Force	1
Unnecessary Use of Force	1

More than seventeen percent (17%), slightly less than one-quarter (1/4), of the allegations made were classified as illegal, improper, or unlawful stops, detentions, and questioning, or arrests. Stops included pedestrian stops as well as traffic stops. Arrests were identified as either false, illegal, improper, or unlawful.

Over one-half (1/2), approximately forty percent (40%), of the misconduct alleged was classified as abuse of authority, neglect of official duties, negligence, language, or unprofessional conduct. Abuse of authority involved complaints of evidence tampering, threatened arrest, and threatened use of physical force. Neglect of official duties included incidents of failing to ensure/endangering the welfare of a minor, failing to give Miranda warnings, failing to fingerprint after an arrest, failing to provide information to the complainant during an encounter, and unsafe vehicle operation. The allegation of negligence was a general complaint involving the complainant-officer contact and the encounter as a whole. Language was identified as derogatory, inappropriate, profane, offensive, vulgar, or racially-biased. Unprofessional conduct included allegations of racial bias toward the complainant, failure or refusal to provide the complainant with a name and badge number, and rude behavior toward the complainant.

Use of force accounted for nearly twenty-five percent (25%) of the allegations. Of the use of force allegations, one-half (1/2) were identified as excessive, improper, and unnecessary use of force. The remaining use of force allegations were classified as use of force, generally.

Many of the remaining allegations, while they could have fallen under broader categories, were reported as allegations of a specific type of conduct or behavior, which, more often than not, was narrowly tailored to the complaint in which it was contained. Therefore, several of the allegations identified were made by only one complainant in a single complaint.

Suspension of Review

“Upon the written recommendation of the Corporation Counsel, the Common Council or the Mayor may suspend the [Board’s] review of any complaint where a separate criminal investigation is underway or where a civil action against the City is underway, or pending.” (See § 42-348). On June 13, 2005 and October 31, 2005, the Board received correspondence from Mayor Gerald Jennings suspending its review of two complaints, one of which involved the death of the complainant’s spouse and the other of which involved allegations of excessive use of force, neglect of official duties, and unprofessional conduct.

Board and Police Department Findings

At the conclusion of the Office of Professional Standards’ investigation of a citizen complaint, the Police Department is required to submit a preliminary report of its findings to the Board. (See § 42-343(E)). Following its review and deliberation of a complaint, which may

include, in appropriate cases: 1) review of the complaint, the OPS’s preliminary report, the monitor’s report, if one has been assigned to the complaint, transcripts, and any other information contained in the Board’s complaint file and the OPS’s investigative file, which is not confidential and/or otherwise protected by state, federal, local law, or by the collective bargaining agreement; 2) presentations made by monitors; and 3) questioning of detectives from the OPS and officers of the Police Department, the Board is authorized by § 42-343(F)(1) of the legislation to render a finding or findings on the complaint. The Chief of Police must then “review the Department’s preliminary report in light of the [Board’s] finding and . . . make the Department’s final determination.” (See § 42-345).

2003-2004

At the conclusion of the Board’s fourth year of operation, findings had not yet been made with respect to eighteen (18) complaints. All eighteen (18) complaints were filed in the Board’s fourth year of operation (November 1, 2003 - October 31, 2004). These complaints were not reported in the Board’s Fourth Annual Reports and were, therefore, carried forward into the fifth year.

In the fifth year, the Board reviewed seventeen (17) of the eighteen (18) complaints carried over from the fourth year, and rendered findings for the allegations contained in all seventeen (17) complaints. Since one-half (1/2) of these complaints contained multiple allegations of misconduct, the number of findings made is not equal to the number of complaints in which findings were rendered.

Figure 4: Comparison of Findings Made by the Board and the Police Department (2003-2004)

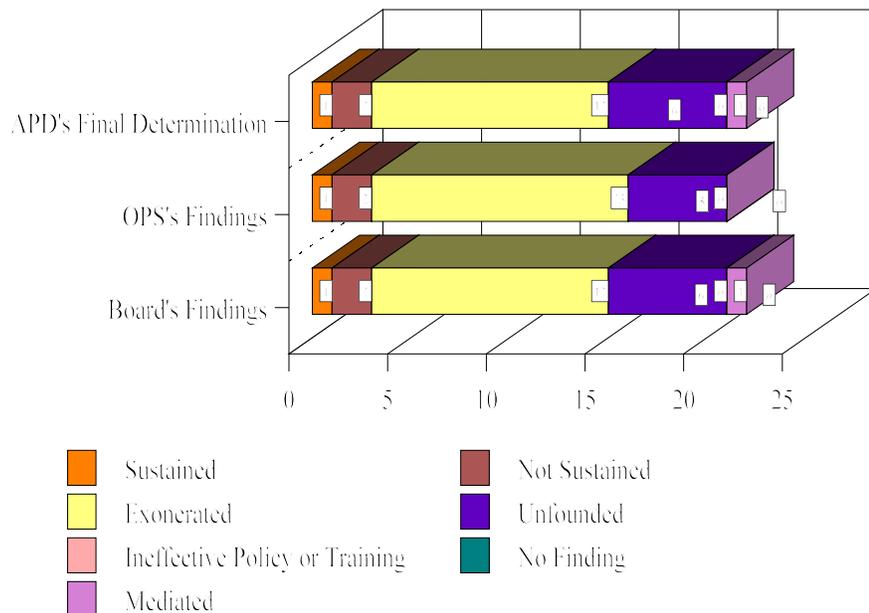
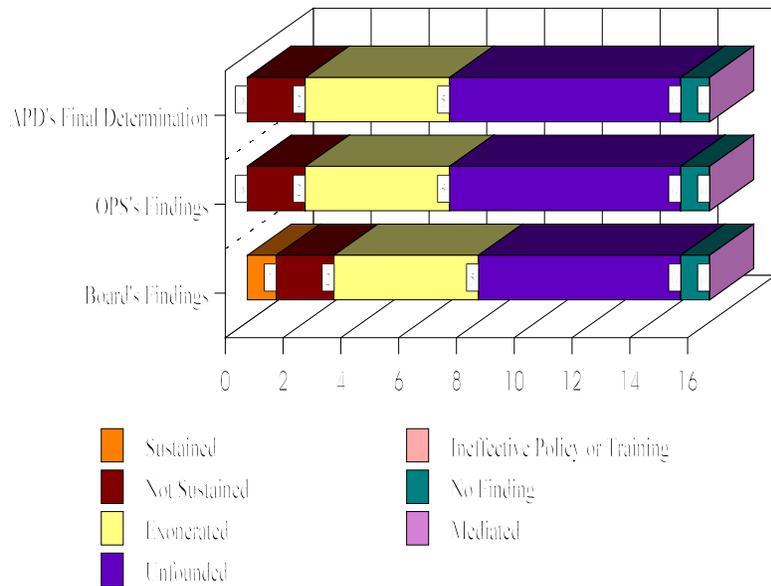


Figure 4 illustrates a comparison of the findings made by the Board and the findings made by the Police Department, including the preliminary findings of the Office of Professional Standards and the Albany Police Department’s final determinations.

As to those complaints carried forward from the fourth year and reviewed in the fifth year, the Board made findings consistent with the findings of the Office of Professional Standards in all, but one (1) case. This single inconsistent finding was made with respect to the allegations contained in one (1) complaint filed in the fourth year, in which the complainant alleged that the Albany police officers improperly disclosed his identity as a police informant, resulting in threats and a fear for his personal safety. The Office of Professional Standards, in its preliminary report to the Board, recommended that this allegation be closed with a finding of *exonerated*. However, the Board, in its review and deliberations of the allegations in this complaint, rendered a finding of *unfounded* as to this allegation.

2004-2005

In the Board's fifth year of operation, the Board reviewed fifteen (15) of its thirty-one (31) filed complaints, and rendered findings for the allegations contained in thirteen (13) complaints. Given that more than one-half (1/2) of these complaints contained multiple allegations of



misconduct, the number of findings made is not equal to the number of complaints in which findings were rendered.

Figure 5 depicts a comparison of the findings made by the Board and the findings made by the Police Department, including the preliminary findings of the Office of Professional Standards and the Albany Police Department's final determinations.

Figure 5: Comparison of Findings Made by the Board, the OPS, and the Police Department (2004-2005)

In its fifth year of operation, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all, but one (1) case. The Board's only inconsistent finding was

made with respect to the allegations contained in one (1) complaint.

In that case, the Office of Professional Standards recommended a preliminary finding of *unfounded* as to the complainant's allegation that an Albany police officer refused to give his/her name and badge number despite repeated requests. Following its review and deliberation of this complaint, the Board did not adopt the OPS's preliminary finding, but rather rendered its own finding of *sustained* as to this allegation contained in the complaint.

Further Investigation

Under § 42-343(F)(2) of the legislation, the Board may, after its "review and deliberation of the preliminary report of the Department's finding . . . request that Professional Standards conduct further investigation of the complaint."

In the fifth year, the Board returned three (3) complaints reviewed to the Office of Professional Standards for further investigation. Those complaints involved two (2) allegations of use of force, one (1) allegation of false arrest, and one allegation of improper conduct.

Mediation

After a complaint is filed, § 42-346(C) of the legislation provides that "the complainant or officer may at any time in the review process utilize the [Board's] mediation process . . . to resolve the complaint. Additionally, the Board is authorized under § 32-343(F)(4) to refer the complaint to mediation following its review and deliberation of the Department's preliminary report of its

findings. In the fifth year, the Board referred one (1) complaint to the Chief for consideration and approval for mediation pursuant to its authority under § 42-343(F)(4). The complaint involved the improper stop, detention, and questioning of the complainant and her friend.

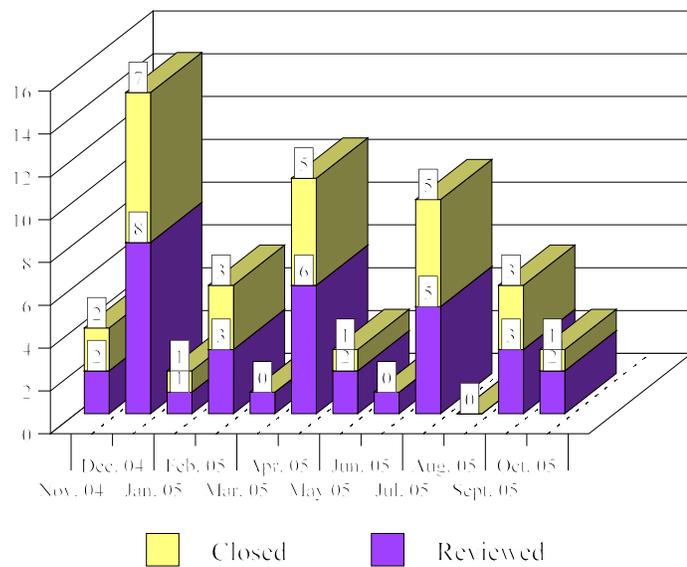
Other Board Action

In its fifth year of operation, the Board voted not to review one (1) complaint, which was previously submitted to the Board. In its communication to the complainant, the Board explained that the complaint was presented and considered by the Board, but the Board voted not to review the complaint and would stand by its findings made in complainant’s previously filed complaint regarding the same incident. Additionally, after voting to close a complaint filed against a member of the Colonie Police Department (CPD) with a finding of **no finding**, the Board requested that the complaint be forwarded from the OPS to the CPD.

Complaints Reviewed and Closed

At the close of its fifth year in October 2005, the Board had reviewed thirty-four (34) complaints and had closed a total of twenty-eight (28). Figure 6 illustrates a monthly comparison of the number of complaints reviewed and closed by the Board between November 1, 2004 and October 31, 2005.

At the conclusion of the fifth year of operation, the Board had not yet made findings with respect to seventeen (17) complaints, thirteen (13) of which are open and active complaints and four (4) of which are complaints that have been suspended from the Board’s review. Of these seventeen (17) complaints, one (1) complaint is a carry over from the fourth year and sixteen (16) complaints will be carried forward from the fifth year. These complaints are not reported in the Board’s Fifth Annual Report and, therefore, will be carried forward into the fifth year.



POLICY REVIEW/RECOMMENDATIONS **Figure 6:** Monthly Comparison of Complaints Reviewed and Closed November 1, 2004 to October 31, 2005

Standing Monthly Meeting with the APD

In the Board’s fifth year of operation, the Police Department Policy Review/Recommendations Committee coordinated a standing monthly meeting with Albany Police Chief James Turley and Assistant Police Chief Paula Breen, scheduled to take place one-hour prior to the start of the Board’s regular monthly meetings, from 5:00 p.m. to 6:00 p.m. at the Albany Public Library. These meetings provided an opportunity for the CPRB and the APD to review, and discuss the development of, Department practices, policies and procedures.

First Quarter

On January 24, 2005, the Policy Committee held its first standing meeting with Chief Turley and Assistant Chief Breen. Committee Chair Jason Allen and Committee member Judith Mazza were in attendance. There was a brief discussion about the current policies and procedures in development and/or in the process of being reviewed by the APD.

Second Quarter

On February 14, 2005, March 14, 2005, and April 11, 2005, the Policy Committee held its standing monthly meeting with Chief Turley and Assistant Chief Breen one hour before the Board's regular monthly meeting. Each of these three meetings provided committee members with an opportunity to discuss the Department's development and adoption of a policy for the use of video recording devices in patrol cars; adoption of a taser use policy; revisions to its use of force and vehicle pursuit policies; and purchase of new software to track Early Warning System data. These meetings also provided an opportunity for committee members to discuss categories of complaint-related data collected by the Department that the Board would like to access and review.

Third Quarter

On May 9, 2005 and July 11, 2005, two standing meetings of the Policy Committee were held. 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.

Fourth Quarter

On September 1, 2005, Committee members met to identify and discuss the policy issues presented in the complaint filed by the Coalition for Accountable Police and Government.

PUBLIC OFFICIAL LIAISON

On October 27, 2005, members of the Public Official Liaison Committee met with Deputy Mayor Philip Calderone to discuss the Board's concerns regarding verbal complaints made to the Office of Professional Standards and the procedures for ensuring that complainants are afforded an opportunity to file a written complaint, which can later be reviewed by the Board.

REPORTS

Board Reports

In its fifth year of operation, three (3) quarterly reports and the Fourth Annual Report were submitted to the Board for approval. Each report detailed the activities of the Board and the Government Law Center during each time period covered. The Fourth Quarterly Report for 2004, First and Second Quarterly Reports for 2005, and the Fourth Annual Report were adopted by the Board before the close of the fifth year. A copy of each of these reports was submitted and filed with the Mayor, the Common Council, and the Chief of Police as required by § 42-340(c) of the City Code. Additional copies were forwarded to members of the public, community groups and organizations, and other interested parties on the Board's mailing list.

Other Reports

In the fifth year, the Board received a copy of Professor Robert Worden's most recent report, "Citizen Oversight of the Albany Police Department: Perceptions of Police Clients and Complainants, 2003."

TRAINING

Section 42-339 of the legislation creating the Board requires that "the Government Law Center . . . provide, to [Board] members, and the members shall undergo continuing education on issues related to the interaction between civilians and police officers . . ."

Organizational Training

On November 29, 2004, Board members participated in a two-hour organizational training session, at which the Board received a training update on the CPRB Legislation, By-Laws, and Operating Procedures; discussed national examples of successful citizen-police oversight mediation programs and methods for building upon and improving public education and outreach initiatives; and addressed categories of information that could be used to track officers who are the subject of multiple complaints. During the session, a new committee structure was established, and committee membership and works in progress were identified.

New Member Orientation

In November and December of 2004, new Board members Jason Allen, Reverend Beresford Bailey, and Ronald Flagg, and Board members Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, and Paul Weafer attended and participated in the Board's orientation program, comprising two three-hour training sessions. The first three-hour session 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. In the second three-hour session, new members received training on the Open Meetings Law, the Freedom of Information Law, and Section 50-a of the New York Civil Rights Law; the Albany Police Department's internal affairs function - the

duties and responsibilities of the Office of Professional Standards; and the role of the Board's monitors/investigators in the process of complaint review.

The orientation program was coordinated and facilitated by the Government Law Center to educate the three new members about the Board's organization and operation and included training on the goals, powers, and procedures of the Board as required by Section 42-339 of Chapter 42, Part 33 of the Albany City Code. Orientation trainers included members of the GLC staff; members of the Board; Robert Freeman, Esq., Executive Director of the New York State Committee on Open Government; Detectives Arthur Shade and Kathy Hendrick of the Office of Professional Standards; and Board monitors/investigators Richard Lenihan and Albert Lawrence, Esq.

New Member Citizen Police Academy

On January 24, 2005, new Board members Jason Allen, Reverend Beresford Bailey, and Ronald Flagg attended the first of four three-hour citizen police academy training sessions. The session included an overview of the Albany Police Department, including its command structure. A special session of the citizen police academy was coordinated by Assistant Chief Paula Breen to assist these new members in complying with the requirements of Section 42-339 of Chapter 42, Part 33 of the Albany City Code. The remaining three special sessions of the Academy are scheduled for February 7th, April 4th, and April 25th of 2005.

On February 7, 2005 and April 25, 2005, the final two sessions of the new member citizen police academy were held for Board members Jason Allen, Reverend Beresford Bailey, and Ronald Flagg. These two sessions included training on the legislation creating the Board; investigative methods (i.e., proof continuum, sources of information, case law, incident reconstruction, etc.); the Department's Standard Operating Procedures; the Collective Bargaining Agreement; and the OPS's investigations and findings. Ride-alongs for each member will be scheduled to take place in the third and fourth quarters.

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

Lecture - Consent Searches

On February 23, 2005, Board members Barbara Gaige and Ronald Flagg attended a lecture sponsored by the Police Research Group and coordinated by Professor Robert Worden, School of Criminal Justice & Hindelang Criminal Justice Research Center at the State University of New York at Albany. The lecture, "Yes or No - Does 'Consent' Matter? Examining Consent Searches in Two State Police Agencies," given by Associate Professor of Criminal Justice Robin Engel of the University of Cincinnati, addressed the results of a three-year research study of stops and searches performed by the police in Arizona and Pennsylvania.

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.

Quarterly Training Schedule

At the close of the Board's fifth year of operation, a quarterly training schedule was established for 2006. Proposed training sessions included: Ethics in Citizen Oversight; How to Conduct a Thorough and Effective Review of an Internal Affairs Investigation; Dealing with Persons with Mental/Emotional/Substance Abuse Issues; *and* On Patrol - CPRB Ride-Alongs.

MEETINGS OF THE BOARD

The Board met as a whole eleven (11) times for the conduct of business in the fifth year. Except for meetings held at Albany Law School, 80 New Scotland Avenue, in the Dean Alexander Moot Courtroom (Room 421) in first and third quarters, all other meetings held in the fifth year of operation took place at the Albany Public Library, 161 Washington Avenue, in the Large Auditorium. There was a public comment period held at each of the monthly meetings, and the meetings were devoted primarily to the review of complaints and a discussion of committee activities.

The Board met as a whole three times for the conduct of business in the first quarter. Meetings were held on November 15, 2004, December 13, 2004, and January 10, 2005. In the second quarter, regular monthly meetings were held on February 14, 2005, March 14, 2005, and April 11, 2005. The Board met 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. In the fourth quarter, the Board met as a whole two times for the conduct of business. Meetings were held on September 12, 2005 and October 10, 2005.

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.

On October 14, 2005, members of the Board attended an Albany Police Department swearing in ceremony for new officers at Albany City Hall.

GOVERNMENT LAW CENTER

Pursuant to the enactment of the legislation creating the Board in July 2000, the Government Law Center was retained by the City of Albany to provide a number of support services to the Albany Citizens' Police Review Board. One lead attorney and two support staff worked collaboratively during this year to prepare, submit, and file the Board's quarterly and annual reports; organize and facilitate the Board's ongoing training program; coordinate the Board's public education/community outreach campaign and initiatives; provide staff support in preparation of, during, and following each of the Board's monthly meetings; handle all administrative matters relating to the complaint review process and assist the Board in its day-to-day operations. These services are discussed in detail below.

First Quarter

During the first 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 Acting Chairman Herman Thomas and Barbara Gaige, Chair of the Committee on Complaint Review, to discuss outstanding and active complaints requiring guidance and/or input from the Corporation Counsel's office and the OPS; new Board member orientation; Board organization; outstanding policy review/recommendations/requests; public education/community outreach initiatives; and training.
- Updated the Board's orientation program, and coordinated and conducted orientation training of the Board's three new members, which included preparing the orientation agenda; scheduling the sessions; compiling and creating material for a 565-page updated training manual (*see appended Orientation Program Table of Contents*); securing orientation trainers; and serving as the orientation facilitator.
- Coordinated new member citizen police academy training sessions and forwarded the training schedule to the Board, Assistant Chief Breen, and Assistant Corporation Counsel Patrick Jordan.
- At the Board's request, drafted a request for further investigation of CPRB No. 8-04/OPS No. C04-203 for Board review and approval.
- At the Board's request, drafted correspondence to Assistant Chief Breen and Assistant Corporation Counsel Patrick Jordan, with a copy to Chief Turley, regarding the Police Department's redaction/exclusion of officer race/ethnicity and gender information from complaint forms and complaint-related documents, for Board review and approval.
- At the Board's request, compiled materials on best practices in citizen-police oversight mediation for forwarding to the APD and Union representatives.
- At the request of the Acting Chair, drafted a "Report from the Acting Chair" for the December 13, 2004 meeting. The report was a summary of the Board's new committee structure, and included committee membership and works in progress.
- Drafted correspondence, on behalf of the Board's Chair, in response to complaint against a member of the Watervliet Police Department, explaining that the Board does not have jurisdiction to review complaints of misconduct against members of departments outside of the City of Albany.
- Forwarded, to the Board, correspondence from Chief Turley in response to the Board's recommendation for additional training of the officer identified in CPRB No. 12-04/OPS No. C04-317.
- Forwarded, to the Board, correspondence from Chief Turley regarding CPRB No. 29-02 and CPRB No. 5-04.

- Forwarded, to the Board, an invitation from the Executive Director of the Capital Region Chapter of the New York Civil Liberties Union (NYCLU), Melanie Trimble, inviting the Board to attend a policy meeting of the Police Department, the Center for Law and Justice, and the Capital Region NYCLU to discuss issues involved in establishing policies for the Department with regard to the use of cameras in patrol cars.
- Forwarded, to the Board, correspondence from Ms. Trimble, notifying the Board that the Capital Region NYCLU is preparing a study of how the Albany Police Department and the Board deal with mentally ill individuals.
- Forwarded, to the Board, updated contact information for members of the Board and the Board's monitors/investigators.
- Responded to two requests made to GLC staff for legal assistance.

Second Quarter

During the second quarter of 2005, the Government Law Center engaged in the following activities:

- Met with Assistant Corporation Counsel Patrick Jordan, to discuss outstanding complaints requiring input and/or a written opinion from the Corporation Counsel's Office. A follow-up letter and a report detailing the status of the outstanding complaints discussed were forwarded to Mr. Jordan.
- Met with Deputy Mayor Philip Calderone, Chief James Turley, Assistant Chief Paula Breen, and Assistant Corporation Counsel Patrick Jordan. Reported on four areas that the Board indicated would be its focus in 2005, including redeveloping its mediation program; updating and expanding its public education and community outreach campaign; actively participating in reviewing Police Department policies, practices, and procedures; and tracking the Department's progress in developing its Early Warning System.
- Compiled and forwarded records to the Corporation Counsel's Office in response to a demand for discovery received by the OPS.
- Prepared and forwarded Board member expense information for the 2004 NACOLE (National Association for Civilian Oversight of Law Enforcement) Conference to the Corporation Counsel.
- Audited and prepared a status report, including: the complainant's name; the date the complaint was filed; a summary of the complaint; information regarding the appointment of a monitor; the date the OPS' report was received and a summary of its findings; the Board's findings and/or any action taken on the complaint; and the status of all outstanding complaints filed with the Board that were active, referred to mediation, or suspended as of February 4, 2005.
- In accordance with II (H) of the CPRB's Operating Procedures, created a schedule of Board members to be consulted regarding the appointment of a monitor to a

complaint. The schedule, covering the months of February through December of 2005, provides for consultation with five members of the Board, including the Chair, Vice-Chair, and Chair of the Committee on Complaint and two designated members on a rotating basis.

- Coordinated a revised schedule of new member citizen police academy training sessions and forwarded the schedule to members of the Board, Assistant Chief Breen, and Assistant Corporation Counsel Patrick Jordan.
- Revised and forwarded the Board's information to NACOLE for posting to its Roster of Civilian Oversight Agencies in the U.S., available at: <http://www.nacole.org/RosterCivilianOversightAgencies0505.pdf>.
- At the Board's request, revised the draft request for further investigation of CPRB No. 8-04/OPS No. C04-203 for Board review and approval.
- At the Board's request, drafted a request for further investigation of CPRB No. 24-04/OPS No. C04-502 for Board review and approval.
- At the Board's request, drafted correspondence in response to a letter from a former complainant asking whether or not the Board had a procedure for re-opening complaints. Forwarded the draft correspondence to the Board for its review and approval.
- Forwarded a list of proposed amendments to the CPRB legislation identified and adopted by the Public Safety Committee at its caucus meeting on January 25, 2005 to the Board.
- Forwarded the Spring 2005 Albany Citizen Police Academy registration form and curriculum to members of the Board.
- Forwarded the Board's outreach materials, including its complaint review and mediation brochures, a one-page flyer describing the Board, and its website material, as well as sample brochures and website information from several citizen police oversight agencies from around the country, to Board member Ronald Flagg for use in redeveloping and updating the Board's public education and community outreach campaign.
- Forwarded revised copies of the Albany Police Department's Standard Operating Procedures to Board members.
- Forwarded the Board's committee structure information to Assistant Chief Paula Breen.
- Updated the Board's website to include a 2004 amendment to the CPRB legislation, a listing of new board members and officers, a current meeting schedule, and the most recent meeting minutes.

Third Quarter

During the third quarter of 2005, the Government Law Center engaged in the following

activities:

- 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.

Fourth Quarter

During the fourth quarter of 2005, the Government Law Center engaged in the following activities:

- Attended a meeting with Deputy Mayor Calderone and members of the Public Official Liaison Committee.
- Responded to a request for access to information in the public copy of the Albany Police Department's Standard Operating Procedures. Faxed a copy of the SOP's cover sheet to the requesting party.
- Prepared and forwarded materials about the Board and the complaint review process to Chairperson Gaige for her November guest lecture to students participating in a criminal justice course at SUNY Albany.
- Prepared and forwarded a follow-up list of outstanding complaints to Assistant

Corporation Counsel Patrick Jordan. The list included those complaints requiring the advice, guidance, and/or input of the Corporation Counsel's Office.

- Prepared and distributed term information, including appointment and reappointment information, to Board members.
- Forwarded term information to Assistant Corporation Counsel Patrick Jordan.
- Drafted and forwarded correspondence to Mayor Gerald Jennings and Albany Common Council President Helen Desfosses notifying them of the expiration of the terms of Board members Herman Thomas and Barbara Gaige.
- Drafted and forwarded correspondence to Deputy Mayor Calderone, estimating the expenses associated with sending one Board member to the Annual NACOLE (National Association for Civilian Oversight of Law Enforcement) Conference and inquiring as to how many Board members the City would be willing to send to the 2005 Conference.
- Drafted and forwarded thank you letters to all of the individuals who participated in the mediation meetings in June. Letters were also drafted and forwarded to the Mayor, Deputy Mayor, and Chairman of the Common Council's Public Safety Committee. Included with the letters was a complete copy of the materials distributed by Portland, Oregon Independent Police Review's Mediation Program Coordinator, Laurie Stewart at the meetings.
- 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 the resignation letter of Vice-Chairman Herman Thomas.
- Reviewed a report prepared by the New York Civil Liberties Union - Capital Region Chapter on the interaction between mentally ill individuals and the Albany and Schenectady Police Departments.
- Reviewed the report prepared by Lauri Stewart.
- Updated the Board's website to include the Second Quarterly Report for 2005 and the Board's meeting minutes.
- Hired a student intern to assist in providing administrative and staff support services to the Board.

Over the course of the Board's fifth year, the Government Law Center also performed the following administrative tasks:

- Arranged logistics for and coordinated regular monthly meetings, including: securing dates, times, and locations for each meeting, and providing notice to the affected parties and to the public;
- Arranged logistics for and coordinated committee meetings, including: securing

- dates, times, and locations for each meeting, and preparing meeting materials;
- Arranged logistics for and coordinated training sessions, including: securing dates, times, and locations for each session, and preparing training materials;
 - Arranged for Board member attendance at the 2004 NACOLE Conference, including: registering members for the conference and making hotel and flight reservations;
 - 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 monthly meetings, committee meetings, and training sessions;
 - 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;
 - Provided content for, updated, and maintained the Board's website;
 - Conducted a monthly accounting and inventory of complaints filed with the Board, including a summary of active and closed complaints, recommendations, and pending requests submitted to the Commissioner of Public Safety, the Office of Professional Standards, and the Corporation Counsel's Office;
 - Reported monthly complaint accounting and inventory to the Board at each of its quarterly meetings;
 - Assisted with typing and forwarding the Board's requests and recommendations to the Commissioner of Public Safety; 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; *and*
 - Answered inquiries from the community and the media about the Board and the complaint review process.

CONCLUSION

The Board continued to be active in its fifth year of operation.

In the first quarter, the Board elected new Board officers; reviewed the Common Council's proposed amendments to the CPRB Legislation; attended the Public Safety Committee's meeting where the proposals were discussed; reviewed one-half of its active complaints; held three regular monthly meetings; established a new committee structure; assisted the GLC in updating the CPRB orientation program and materials; attended and participated in new member orientation training sessions; and coordinated regular monthly meetings with Chief Turley, Assistant Chief Breen, and the Police Department Policy Review/Recommendations Committee.

In the second quarter, the Board held three Policy Committee meetings in addition to its three regular monthly meetings; participated in the Civilian Police Academy for new members; attended a lecture on consent searches; and reviewed slightly more than one-third (1/3) of its active complaints.

In the third quarter, the Board held three regular monthly meetings and two policy committee meetings; consulted with the union and Portland, Oregon Independent Police Review's Mediation Program Coordinator to discuss best practices in citizen-oversight mediation; met with the Albany Police Department to begin developing and compiling service call, force, and complaint data for Board review; participated in a policy training session with the APD; and reviewed approximately one-half (1/2) of its active complaints.

The fourth quarter was devoted primarily to complaint review, the Board's regular monthly meetings, and committee activities.

Although the Board has concluded five years of operation, it remains dedicated to improving communication between the Police Department and the community; increasing police accountability and credibility with the public; and building upon and maintaining a complaint review process that is credible, impartial, and fair.

Respectfully Submitted,

The Government Law Center of Albany Law School
Approved by and submitted on behalf of the
City of Albany Citizens' Police Review Board

