

City of Albany

Second Quarterly Report May 1, 2009

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



CITIZENS' POLICE REVIEW BOARD

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

May 1, 2009

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 Second Quarterly Report so submitted in the year 2009.

DEFINITIONS

For purposes of this report, the following words and phrases shall have the meaning described in this report:

COMPLAINT – A written statement concerning police conduct which is either submitted to the Citizens' Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department.

CPRB or BOARD – The Citizens' Police Review Board.

GOVERNMENT LAW CENTER – The Government Law Center of Albany Law School.

MEDIATION – A structured dispute resolution process in which a neutral third party assists the disputants to reach a negotiated settlement of their differences.

OFFICER – Any sworn police officer of the City of Albany Police Department affected by a citizen complaint.

OFFICE OF PROFESSIONAL STANDARDS – The Professional Standards Unit of the City of Albany Police Department.

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 second quarter of 2009:

| | | |
|-------------------|--------------------|-------------------|
| Jason Allen | Marilyn Hammond | Anthony Potenza |
| Daniel Fitzgerald | John Paneto | Jean Gannon** |
| Ronald Flagg | Andrew Phelan, Jr. | Rev. Edward Smart |

***term began in March 2009*

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

| | |
|------------|--------------------|
| Chair | Jason Allen |
| Vice-Chair | Ronald Flagg |
| Secretary | Andrew Phelan, Jr. |

Appointments, Re-appointments, and Resignations

In February 2009, the Common Council re-appointed Board member Anthony Potenza to a two-year term and Chairman Jason Allen was re-appointed to a three-year term. The Common Council appointed Jean Gannon as a member of the CPRB to serve a three-year term which will expire on October 26, 2012. Ms. Gannon was appointed to fill the seat vacated by James Malatras.

Committees and Task Force

The following committees and task force were operational in the second quarter of 2009:

| | |
|--|---|
| <i>By-Laws and Rules</i> | Jason Allen (Chair) |
| <i>Community Outreach</i> | Reverend Edward Smart (Chair) Jason Allen (<i>ex-officio</i>) |
| <i>Complaint Review</i> | Andrew Phelan, Jr. (Chair) Jason Allen Daniel Fitzgerald Ronald Flagg Jean Gannon Marilyn Hammond John Paneto Anthony Potenza Reverend Edward Smart |
| <i>Mediation</i> | Jason Allen (Chair) |
| <i>Police Department Liaison- Policy Review/ Recommendations</i> | Andrew Phelan, Jr. (Chair) Jason Allen (<i>ex-officio</i>) Anthony Potenza |
| <i>Public Official Liaison</i> | Ronald Flagg (Chair) Jason Allen (Co-Chair) Marilyn Hammond Andrew Phelan, Jr. Anthony Potenza |

Task Force on Monitors Jason Allen (*ex-officio*)

The following occurred during the second quarter of 2009:

BY-LAWS AND RULES/MEDIATION

In February 2009, the Board sent an article to Chief of Police James Tuffey regarding efforts the Los Angeles Police Department (LAPD) was making with its mediation program. The article was sent to assist the APD with accepting mediation as a solution to resolving disputes.

COMMUNITY OUTREACH

On February 4, 2009, Board members Anthony Potenza and Reverend Edward Smart conducted an outreach presentation for the Gay, Lesbian, Bisexual and Transgendered (GLBT) organization. The meeting went very well and the organization had some good questions for the Board. The GLBT Council was appreciative that the Board gave the presentation.

On March 2, 2009, Board member Ronald Flagg met with Professor Jose Luiz De Amorim Ratton, Jr. Mr. Ratton is a professor from Brazil who was researching civilian review boards for a future attempt to replicate it in the very large town where he resides in Brazil. The town in which Professor Ratton resides had 999 homicides in the past year and it is believed that a civilian police review board might be helpful for the area. The professor also met with District Attorney David Soares and the School for Criminal Justice. Albany was a last minute stop for the professor on his countrywide tour and he appreciated the discussion with Mr. Flagg.

On April 29, 2009, Chairman Jason Allen met with the New York Civil Liberties Union (NYCLU). The NYCLU suggested that the Board not only send letters to the complainant before the case is heard, but in case there is a literacy issue, the Board should call complainants as well prior to their complaint being reviewed. The GLC agreed to call complainants in addition to mailing notices to them. The outreach meeting with the NYCLU was a good exchange of information.

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, will be responsible for the presentation of a particular complaint to the Board at its monthly meetings as assigned by the Chair of the Committee. Twenty-three (23) complaints were presented and reviewed in the second quarter of 2009.

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

February 2009

Jason Allen, Ronald Flagg, John Paneto, Andrew Phelan Jr.,
Anthony Potenza, and Reverend Edward Smart.

April 2009

Jason Allen, Ronald Flagg, Marilyn Hammond, John Paneto,
Andrew Phelan Jr., Anthony Potenza, and Reverend Edward Smart.

COMPLAINT SUMMARIES AND STATISTICS

Section 42-340C 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 second quarter of 2009, the Board received twelve (12) new complaints in addition to its fifty-six (56) active complaints and six (6) suspended complaints. All six (6) of the suspended complaints were carried over from previous quarters. Monitors were appointed to investigate six (6) of the twelve (12) new complaints. Of the sixty-eight (68) complaints before the Board, the Board presented twenty-three (23) complaints for review and rendered findings for the allegation(s) contained in twenty-one (21) complaints. These twenty-one (21) complaints contained a total of forty-eight (48) allegations of misconduct.

As to the twenty-three (23) complaints reviewed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in twenty-one (21) cases. Of the twenty-three (23) complaints reviewed, Board action was taken on two (2) complaints. These actions included the Board voting unanimously to table rendering its findings and requesting that the OPS conduct a more thorough and complete investigation of the complaints. Of the twenty-one (21) complaints where findings were rendered, the Board made findings consistent with the preliminary findings of the Office of Professional Standards and the Albany Police Department in all twenty-one (21) cases.

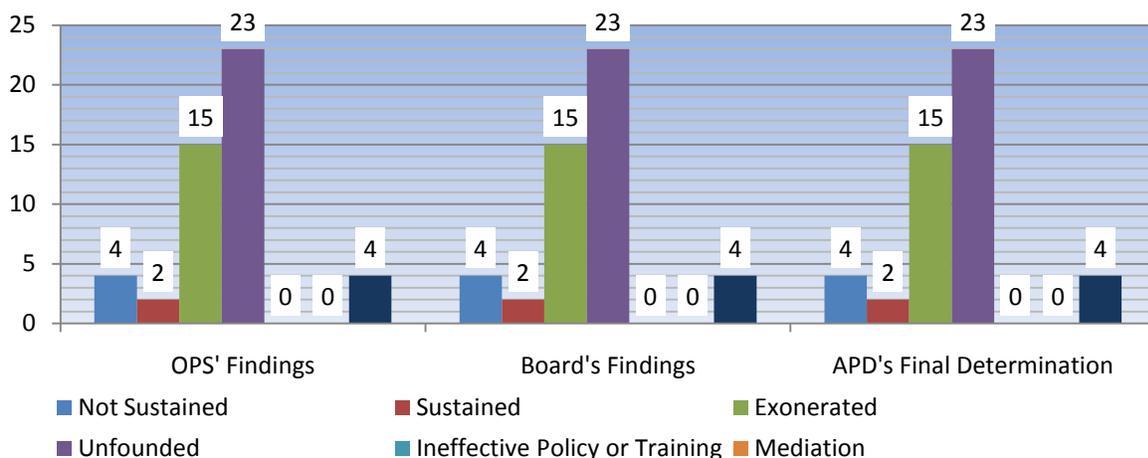


Figure 1: Comparison of Findings Made by the Board, the OPS, and the Albany Police Department during the Second Quarter of 2009.

Figure 1 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. The following is a summary of those complaints:

CPRB No. 11-08/OPS No. C08-171 [monitor appointed]

- Nature of the Allegation(s):
- 1) Call Handling - the complainant's son was being harassed by members of the APD and the OPS, and the case was being brushed aside;
 - 2) Conduct Standards - a detective was sitting outside of Café Hollywood, harassing the complainant's son and had him fired from his job;
 - 3) Conduct Standards - detectives had the complainant fired from his job;
 - 4) Conduct Standards - a detective told staff at the establishment that he would make things difficult for them if they threw his niece out of the establishment because of the complainant's son;
 - 5) Conduct Standards - the detectives went to the complainant's son's house and had to be asked to leave;
 - 6) Conduct Standards - while in the courtroom, the detectives spoke to deputies and surrounded the complainant's family;
 - 7) Conduct Standards - the detectives began laughing, snickering at, and trying to instigate the complainant's family while inside the courtroom;
 - 8) Use of Force - while outside the courthouse, the detectives harassed the complainant's other son by grabbing him, shoving him and making threats toward him;
 - 9) Conduct Standards - each time the complainant's son was arrested by another agency, the detective made a call to that agency to place a hold on her son so Albany could come up and place charges on him; *and*
 - 10) Conduct Standards - the complainant's son was being harassed by officers via e-mail, and an officer followed her son down the street.

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

- 2) **Unfounded** as to the first conduct standards allegation;
- 3) **Unfounded** as to the second conduct standards allegation;
- 4) **Unfounded** as to the third conduct standards allegation;
- 5) **Unfounded** as to the fourth conduct standards allegation;
- 6) **Unfounded** as to the fifth conduct standards allegation;
- 7) **Unfounded** as to the sixth conduct standards allegation;
- 8) **Sustained** as to the use of force allegation;
- 9) **Unfounded** as to the seventh conduct standards allegation; *and*
- 10) **No finding** as to the eighth conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the call handling allegation;

- 2) **Unfounded** as to the first conduct standards allegation;
- 3) **Unfounded** as to the second conduct standards allegation;
- 4) **Unfounded** as to the third conduct standards allegation;
- 5) **Unfounded** as to the fourth conduct standards allegation;
- 6) **Unfounded** as to the fifth conduct standards allegation;
- 7) **Unfounded** as to the sixth conduct standards allegation;
- 8) **Sustained** as to the use of force allegation;
- 9) **Unfounded** as to the seventh conduct standards allegation; *and*
- 10) **No finding** as to the eighth conduct standards allegation.

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

- 2) **Unfounded** as to the first conduct standards allegation;

- 3) **Unfounded** as to the second conduct standards allegation;
- 4) **Unfounded** as to the third conduct standards allegation;
- 5) **Unfounded** as to the fourth conduct standards allegation;
- 6) **Unfounded** as to the fifth conduct standards allegation;
- 7) **Unfounded** as to the sixth conduct standards allegation;
- 8) **Sustained** as to the use of force allegation;
- 9) **Unfounded** as to the seventh conduct standards allegation; *and*
- 10) **No finding** as to the eighth conduct standards allegation.

CPRB No. 12-08/OPS No. C08-177 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling - the officers displaying their weapons and removing the complainant and her passenger from their vehicle during the course of the traffic stop; *and*

2) Conduct Standards - the officer yelled “Get the f**k out of the car.”

OPS Preliminary Finding(s): 1) **No finding** as to the call handling allegation; *and*

2) **Not Sustained** as to the conduct standards allegation.

CPRB Action(s):

At its March 12, 2009 meeting, the CPRB voted unanimously, pursuant to its authority under §42-323(F)(2) of the City Code, to request that the OPS further investigate the circumstances and provide an explanation of whether the APD officers had their guns drawn; why the U.S. Marshalls did not give a statement; what role the APD had initiating the traffic stop and during the traffic stop; what the protocol is when an outside police force is brought in to patrol the streets of Albany; who has primary control; is there a protocol on who has jurisdiction; if an incident occurred in Albany, which agency is in command over the situation; and whether all statements from witnesses were taken.

CPRB No. 13-08/OPS No. C08-164 [monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer pulled up and instructed the complainant to “go home” and then drove off; *and*

2) Conduct Standards - the sergeant was agitated and began to yell at the complainant when the complainant asked the officer for his name and badge number.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first conduct standards allegation; *and*

2) **Not Sustained** as to the second conduct standards allegation.

OPS Action(s): At the March 12, 2009 meeting, the OPS agreed to add information that was not in its report but should have been included in the report.

CPRB Action(s): At its March 12, 2009 meeting, the CPRB voted unanimously, pursuant to its authority under §42-323(F)(2) of the City Code, to request that the OPS further investigate the circumstances and provide an explanation why the videotapes were not requested before they were destroyed and whether there was an investigation as to whether the current owner of the watch was in fact the legitimate owner of the watch and whether the OPS interviewed the complainant's uncle.

CPRB No. 20-08/OPS No. C08-215 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - officers went to a residence in response to a complaint that the landlord made, and the officers left without questioning the complainant regarding the complaint;

2) Conduct Standards - officers returned for a second time and witnessed the landlord unlawfully evicting the complainant and did not assist in stopping the landlord from evicting the complainant;

3) Conduct Standards - officers questioned the complainant about rent receipts and a lease; *and*

4) Conduct Standards - officers walked out ignoring the complainant.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first conduct standards allegation;

2) **Unfounded** as to the second conduct standards allegation;

3) **Exonerated** as to the third conduct standards allegation; *and*

4) **Unfounded** as to the fourth conduct standards allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the first conduct standards allegation;
- 2) **Unfounded** as to the second conduct standards allegation;
- 3) **Exonerated** as to the third conduct standards allegation; *and*
- 4) **Unfounded** as to the fourth conduct standards allegation.

APD Final Determination(s):

- 1) **Exonerated** as to the first conduct standards allegation;
- 2) **Unfounded** as to the second conduct standards allegation;
- 3) **Exonerated** as to the third conduct standards allegation; *and*
- 4) **Unfounded** as to the fourth conduct standards allegation.

CPRB No. 23-08/OPS No. C08-254 [monitor appointed]

Nature of the Allegation(s):

- 1) Call Handling - when the complainant went to the station to report a rape the officer asked her several times if she was sure that was what she wanted to do; *and*
- 2) Conduct Standards - the officer was short and rude with complainant.

OPS Preliminary Finding(s):

- 1) **Sustained** as to the call handling allegation; *and*
- 2) **Unfounded** as to the conduct standards allegation.

CPRB Finding(s):

- 1) **Sustained** as to the call handling allegation; *and*
- 2) **Unfounded** as to the conduct standards allegation.

APD Final Determination(s):

- 1) **Sustained** as to the call handling allegation; *and*
- 2) **Unfounded** as to the conduct standards allegation.

CPRB No. 25-08/OPS No. C08-239¹ [monitor appointed]

¹ At its January 8, 2009 meeting, the Board thoroughly reviewed the complaint, but inadvertently failed to vote on the motions that were presented before it. At its March 12, 2009 meeting, the Board voted 7-0 with one (1) abstention to concur with the OPS findings.

Nature of the Allegation(s):

- 1) Use of Force - an officer punched the complainant's boyfriend in the face;
- 2) Use of Force - the officers dragged the complainant's boyfriend down the stairs after he was handcuffed;
- 3) Conduct Standards - an officer at the hospital called the complainant the "N" word;
- 4) Conduct Standards - an officer punched the complainant in the face after he was handcuffed;
- 5) Conduct Standards - the officer kicked the complainant in the face during the arrest; *and*
- 6) Use of Force - the officers beat the complainant while at the station.

OPS Preliminary Finding(s):

- 1) **Unfounded** as to the first use of force allegation;
- 2) **Exonerated** as to the second use of force allegation;
- 3) **Unfounded** as to the first conduct standards allegation;
- 4) **Unfounded** as to the second conduct standards allegation;
- 5) **Unfounded** as to the third conduct standards allegation; *and*
- 6) **Not Sustained** as to the third use of force allegation.

CPRB Finding(s):

- 1) **Unfounded** as to the first use of force allegation;
- 2) **Exonerated** as to the second use of force allegation;
- 3) **Unfounded** as to the first conduct standards allegation;
- 4) **Unfounded** as to the second conduct standards allegation;
- 5) **Unfounded** as to the third conduct standards allegation; *and*
- 6) **Not Sustained** as to the third use of force allegation.

APD Final Determination(s):

- 1) **Unfounded** as to the first use of force allegation;
- 2) **Exonerated** as to the second use of force allegation;

- 3) **Unfounded** as to the first conduct standards allegation;
- 4) **Unfounded** as to the second conduct standards allegation;
- 5) **Unfounded** as to the third conduct standards allegation; *and*
- 6) **Not Sustained** as to the third use of force allegation.

CPRB No. 41-08/OPS No. C08-386 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - an officer harassed the complainant when the officer placed an abandoned vehicle notice on the complainant's vehicle that was parked in his driveway without any plates; *and*
2) Call Handling - the officer contacted the complainant's landlord to have an eviction process started.

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

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

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

CPRB No. 46-08/OPS No. C08-422 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - an officer was rude when he would not tell the complainant why she was being stopped, would not allow her to plead her case, and spoke in a loud voice trying to intimidate her.

OPS Preliminary Finding(s): **Unfounded**

CPRB Finding(s): **Unfounded**

APD Final Determination(s): **Unfounded**

CPRB No. 49-08/OPS No. C08-454 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - during trial testimony, a detective testified that he did not know the informant who was used during the complainant's arrest prior to September 26, 2007, thereby perjuring himself.

OPS Preliminary Finding(s): **Unfounded**

CPRB Finding(s): **Unfounded**

APD Final Determination(s): **Unfounded**

CPRB No. 51-08/OPS No. C08-455 [no monitor appointed]

Nature of the Allegation(s): Call Handling - the complainant was assaulted by another gentleman, and the officer failed to recognize the injuries to his neck.

OPS Preliminary Finding(s): **Unfounded**

CPRB Finding(s): **Unfounded**

APD Final Determination(s): **Unfounded**

CPRB No. 55-08/OPS No. C08-498 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - an officer issued the complainant a ticket for parking his vehicle off the driveway and on the sidewalk.

OPS Preliminary Finding(s): **Exonerated**

CPRB Finding(s): **Exonerated**

APD Final Determination(s): **Exonerated**

CPRB No. 56-08/OPS No. C08-499 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - an officer was unprofessional by using a condescending and hostile tone when speaking to the complainant.

OPS Preliminary Finding(s): **Unfounded**

CPRB Finding(s): **Unfounded**

APD Final Determination(s): **Unfounded**

CPRB No. 57-08/OPS No. C08-512 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer called the complainant “ignorant”; *and*
2) Conduct Standards - the officer threatened to “beat him down” and was aggressive toward the complainant.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first conduct standards allegation; *and*
2) **Not Sustained** as to the second conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the first conduct standards allegation; *and*
2) **Not Sustained** as to the second conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the first conduct standards allegation; *and*
2) **Not Sustained** as to the second conduct standards allegation.

CPRB No. 58-08/OPS No. C08-540 [no monitor appointed]

Nature of the Allegation(s): Call Handling - the complainant felt that the officer was wrong for stopping her and making reference to her “kids throwing bottles.”

OPS Preliminary Finding(s): **Exonerated**

CPRB Finding(s): **Exonerated**

APD Final Determination(s): **Exonerated**

CPRB No. 59-08/OPS No. C08-546 [no monitor appointed]

Nature of the Allegation(s): Use of Force - a Sergeant from the Albany County Sheriff’s Department assaulted the complainant while at 126 Arch Street.

OPS Preliminary Finding(s): **No Finding**

CPRB Finding(s): **No Finding**

APD Final Determination(s): **No Finding**

CPRB No. 61-08/OPS No. C08-819 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - the complainant was tased for no reason;
2) Arrest Authority & Procedures - falsely arrested;
3) Conduct Standards - an officer was rude to the complainant's fiancé while at the South Station desk when he referred to her as "bitch" and refused to give her his name; *and*
4) Conduct Standards - officers discriminated against the complainant.

OPS Preliminary Finding(s): 1) **Unfounded** as to the use of force allegation;
2) **Exonerated** as to the arrest authority & procedures allegation;
3) **Not Sustained** as to the first conduct standards allegation; *and*
4) **Unfounded** as to the second conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the use of force allegation;
2) **Exonerated** as to the arrest authority & procedures allegation;
3) **Not Sustained** as to the first conduct standards allegation; *and*
4) **Unfounded** as to the second conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the use of force allegation;
2) **Exonerated** as to the arrest authority & procedures allegation;
3) **Not Sustained** as to the first conduct standards allegation; *and*
4) **Unfounded** as to the second conduct standards allegation.

CPRB No. 62-08/OPS No. C08 -557 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer made inappropriate statements to the complainant such as "A bitch like her wouldn't have to call 911 in the first place," "she got what she deserved." and "she's mad because he wouldn't have any interest in her";

2) Call Handling – when the complainant asked the officer to leave her residence, he refused; *and*

3) Conduct Standards – the complainant did not want the officer in her apartment, and he refused to leave.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first conduct standards allegation;
2) **Exonerated** as to the call handling allegation; *and*
3) **Exonerated** as to the second conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the first conduct standards allegation;
2) **Exonerated** as to the call handling allegation; *and*
3) **Exonerated** as to the second conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the first conduct standards allegation;
2) **Exonerated** as to the call handling allegation; *and*
3) **Exonerated** as to the second conduct standards allegation.

CPRB No. 64-08/OPS No. C08-568 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - an officer slammed the passenger door of the complainant's car several times while the complainant's shoe was stuck in the door; *and*
2) Call Handling - the ticket that the complainant received was unwarranted.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the first call handling allegation; *and*
2) **Exonerated** as to the second call handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the first call handling allegation; *and*
2) **Exonerated** as to the second call handling allegation.

APD Final Determination(s): 1) **Not Sustained** as to the first call handling allegation; *and*
2) **Exonerated** as to the second call handling allegation.

CPRB No. 65-08/OPS No. C08-614 [no monitor appointed]

Nature of the Allegation(s): Call Handling - an officer told the complainant that he was not allowed to sell his goods in front of the Rite Aid on North Pearl Street where he had set up a table even though he was in possession of a vending permit.

OPS Preliminary Finding(s): **Exonerated**

CPRB Finding(s): **Exonerated**

APD Final Determination(s): **Exonerated**

CPRB No. 67-08/OPS No. C08-645 [no monitor appointed]

Nature of the Allegation(s): Arrest Authorities & Procedures - the arrest of the complainant was not warranted because an order of protection was vacated.

OPS Preliminary Finding(s): **Exonerated**

CPRB Finding(s): **Exonerated**

APD Final Determination(s): **Exonerated**

CPRB No. 71-08/OPS No. C08-734 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer told the complainant that his license was suspended, when it was not suspended; *and*
2) Conduct Standards - the officer pulled the complainant aside and began asking the complainant questions regarding a shooting.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first conduct standards allegation; *and*
2) **Exonerated** as to the second conduct standards allegation.

CPRB Finding(s): 1) **Exonerated** as to the first conduct standards allegation; *and*
2) **Exonerated** as to the second conduct standards allegation.

APD Final Determination(s): 1) **Exonerated** as to the first conduct standards allegation; *and*
2) **Exonerated** as to the second conduct standards allegation.

CPRB No. 77-08/OPS No. C08-780 [no monitor appointed]

Nature of the Allegation(s): Use of Force - the complainant was assaulted by Correctional Officers of the Clinton County Correctional Facility.

OPS Preliminary Finding(s): **No Finding**

CPRB Finding(s): **No Finding**

APD Final Determination(s): **No Finding**

CPRB No. 4-09/OPS No. C09-007 [no monitor appointed]

Nature of the Allegation(s): Call Handling - the complainant's vehicle was towed away because it was parked too far away from the curb on a snow covered narrow street.

OPS Preliminary Finding(s): **No Finding**

CPRB Finding(s): **No Finding**

APD Final Determination(s): **No Finding**

DEFINITION OF CPRB FINDINGS

Section 42-344A of Chapter 42, Part 33 of the Albany City Code charges the Board with, after review and deliberation of an investigation, shall, by majority vote, make one of the following findings on the case:

- (1) *Sustained* – where the review discloses sufficient facts to prove the allegations made in the complaint.
- (2) *Not Sustained* – where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
- (3) *Exonerated* – where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.
- (4) *Unfounded* – where the review shows that the act or acts complained [of] did not occur or were misconstrued.
- (5) *Ineffective Policy or Training* – where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation.

(6) *No Finding* – where, for example, the complaint failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; or where the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.

(7) *Mediation* – where the complaint is resolved by mediation.

POLICE DEPARTMENT LIAISON - POLICY REVIEW/RECOMMENDATIONS

During the second quarter of 2009, Committee Chairman Andrew Phelan met with the OPS for an overview of the APD's new Early Warning System called IAPRO. IAPRO is used by the New York City Police Department, and other police agencies. The system keeps track of civilian complaints, administrative investigations, car accidents, use of force, and injuries to police officers. Information could be generated by locations and shifts. The system would include information on the complainant, police officer, and how many times incidents occurred. The APD started inputting information in the beginning of the year, so they have two and a half months of information in the system.

On April 28, 2009, the committee met with the OPS to discuss what the reports from the Early Warning System would look like. The committee requested that the OPS provide them with a standard report each month. The committee agreed to think about what should be included in the report so that the identities of the officers are protected.

The committee and the OPS also discussed the status of the cameras and audio in all police vehicles. Cameras and audio have been installed in eight (8) police vehicles. The City purchased 13 new cars which will need to be equipped with the cameras. Wireless Access Points need to be installed throughout the City so that the video downloads to the server. The APD is continuing the drafting of the Standard Operating Procedures (SOP) for the cameras and audio. The committee requested that they be given an opportunity to review the SOP when it is complete.

PUBLIC OFFICIAL LIAISON

On April 17, 2009, a meeting was held with Mayor Gerald Jennings, Chairman Jason Allen, Corporation Counsel John Reilly, Deputy Mayor Philip Calderone and board members Andrew Phelan Jr., Anthony Potenza, and Ronald Flagg to update them on the Board's four (4) recommendations. The new grievance form process is working well. The Board is continuing communication with the OPS regarding the installation of cameras in police vehicles. The APD purchased software for the Early Warning System, so the Board will be scheduling an upcoming meeting to discuss how the system will be utilized. The mediation program continues to be at a standstill because the Union representatives are not on board because it conflicts with its guidelines.

During the second quarter of 2009, the Committee scheduled a meeting with the Common Council's Public Safety Committee to update them on the Board's four (4) initiatives. This meeting will take place during the Board's third quarter.

TASK FORCE ON MONITORS

At its April 9, 2009 meeting, the Board agreed that clarification is needed on page eight (8) in the monitors' protocol to clarify billing. The Board will review the protocol and vote on any changes at its May meeting.

The GLC is looking into hiring new monitors due to the increased case load of the Board. The number of monitors which the Board had originally has decreased. The Board and the GLC would like to increase the pool of monitors. The Board agreed to meet with the GLC staff to discuss how to advertise for the experience the Board is looking for, the interview process, and the number of monitors to be hired.

MEETINGS

The Board met as a whole three (3) times for the conduct of business during the second quarter. Meetings were held on February 12, 2009, March 12, 2009, and April 9, 2009. The 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 Thursday 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

New Member Orientation

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."

During the second quarter of 2009, new Board member Gannon attended and participated in the Board's orientation program which consisted of two (2) sessions. The first session of the orientation program was coordinated and facilitated by the Government Law Center to educate the new member 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; 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 session of the orientation program was

coordinated and facilitated by the Albany Police Department's Office of Professional Standards to comprise of training to educate Ms. Gannon on the APD's organization and operation.

APD Citizens' Police Academy

During the second quarter of 2009, new Board members Marilyn Hammond and Jean Gannon enrolled in the APD's Citizens' Police Academy as a part of their training requirement. The Citizens' Police Academy consists of fifteen (15) three-hour training sessions. These sessions will include an overview of the Albany Police Department, including its command structure; patrol unit; and the Office of Professional Standards. As part of their training, they will be required to participate in a ride-along with an APD officer. The ride-along consists of a Board member riding with an APD officer during his/her work shift. This serves as an opportunity for the Board members to observe the interaction between the officers and the community.

REPORTS

At its April 9, 2009 meeting, the Board voted unanimously to approve its Second Quarterly Report for 2008, prepared and submitted by the Government Law Center.

OTHER

10th Anniversary of the CPRB

At the Board's April 9, 2009 meeting, the GLC informed the Board that next year marks the 10th year anniversary of the CPRB. The GLC is thinking about hosting a mini-conference on citizen oversight in celebration of this milestone. Therefore, the GLC requested that the Board form a sub-committee to help plan the event. Board member Ronald Flagg volunteered to serve as co-chair for the sub-committee.

On April 16, 2009, the GLC met with Chairman Jason Allen to discuss the 10th year anniversary of the CPRB in the upcoming year. The logistics of the possible conference were discussed, as well as potential costs.

CPRB Evaluation

On April 21, 2009, the GLC met with City of Albany Corporation Counsel John Reilly and Director of the John F. Finn Institute for Public Safety, Inc., Robert Worden, to discuss a potential evaluation, or survey, of complainant satisfaction with regard to the board's handling of their complaint. At that meeting, it was agreed that the Finn Institute would conduct an evaluation which would be completed in time for the citizen oversight mini-conference.

GOVERNMENT LAW CENTER

During the second quarter of 2009, 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:

- Arranged logistics for and participated in a meeting between the Board's Policy Review Committee and OPS regarding cameras in police vehicles and the early warning system.
- Arranged logistics for and participated in a meeting with members of the Board and Professor Jose Luiz De Amorim Raton Jr. who was conducting research on civilian police boards for the Brazilian town where he resides.
- Arranged logistics for and participated in a meeting with Mayor Gerald Jennings, Deputy Mayor Philip Calderone, Corporation Counsel John Reilly and members of the board.
- Arranged logistics for and participated in a meeting with Chairman Jason Allen to discuss monitor spending, a possible internal audit procedure, and appropriate monitor protocol.
- Arranged the delivery of business cards to the Board members who requested them.
- Arranged logistics for Board members Marilyn Hammond and Jean Gannon to undergo required training, specifically ensuring timely enrollment in the APD Citizens' Police Academy.
- Arranged logistics for an upcoming meeting between the Board's Public Official Liaison Committee and the Common Council's Public Safety Committee.
- Arranged logistics for an upcoming meeting between the Board's Public Official Liaison Committee and Deputy Mayor Philip Calderone.
- Arranged logistics to schedule and, later, cancel a meeting between the Board's Public Official Liaison Subcommittee and Reverend Faust.
- Distributed a news article regarding the LAPD mediation program from Chairman Jason Allen to the Board and Chief James Tuffey.
- Forwarded the redlined monitor's protocol to the Board.
- Distributed an article of interest titled "Public Access to Police Internal Affairs Files" to the Board.

- Drafted and forwarded correspondence to Chief James Tuffey regarding CPRB No. 12-08/OPS No. C08-177; CPRB No. 13-08/OPS No. C08-164; CPRB No. 16-08/OPS No. C08-327.
- Drafted and forwarded correspondence to Chief James 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.
- Drafted and forwarded to the Board for review its Second Quarterly Report for 2008.
- Forwarded the Board's 2008 Second Quarterly Report to its members, City of Albany public officials, and residents.
- Forwarded to the Board for its records, updated copies of the Open Meetings Law and Freedom of Information Law.
- Notifying organizations, community groups, and complainants of the Board's public meeting by posting a press release in City Hall, and sending out via mail and e-mail notices and press releases.
- Forwarded the updated database scorecard to the OPS and members of the Board.
- Continued the development of the CPRB electronic database.

In addition, the Center performed the following administrative tasks:

- Arranged logistics for and coordinated three (3) regular monthly meetings; three (3) committee/task force meetings; and three (3) community outreach meetings, including: securing dates, times, and locations for each meeting, and providing notice to the affected parties and to the public;
- Attended three (3) regular monthly meetings; three (3) committee/task force meetings; and three (3) community outreach meetings;
- 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;

- 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 second quarter meetings;
- Assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police, the Office of Professional Standards, and/or the Corporation Counsel's Office;
- Received and logged in complaints;
- Opened and closed complaint files;
- Forwarded complainant related correspondence to Board members;
- Updated and maintained the Board's website to include new meeting minutes, new Board members and the new meeting schedule;
- Maintained regular communications with Board members, the Police Department, and the Corporation Counsel's Office; *and*,
- Answered inquiries from the community and the media about the Board and the complaint review process.

CONCLUSION

The Board continued to be very active in the second quarter by: holding three (3) regular monthly public meetings; three (3) committee/task force meetings; three (3) community outreach meetings; and reviewing twenty-three (23) complaints. In addition, the Board continued to work closely with the APD towards the enactment of its four (4) initiatives.

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: May 1, 2009

