

# City of Albany

## First Quarterly Report February 1, 2010

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

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

February 1, 2010

**Submitted to:**  
The Mayor of the City of Albany  
The Common Council of the City of Albany  
The Police Chief of the City of Albany

## **BACKGROUND**

Section 42-340 of Chapter 42, Part 33 of the Albany City Code requires the Government Law Center of Albany Law School to file, on behalf of the Albany Citizens' Police Review Board (CPRB), quarterly reports containing "statistics and summaries of citizen complaints, including a comparison of the CPRB's findings with the final determinations of the [Police] Department." This is the First Quarterly Report so submitted in the year 2010.

## **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 first quarter of 2010:

Jason Allen	Marilyn Hammond	Rev. Edward Smart
Ronald Flagg	Andrew Phelan, Jr.	Akosua Yeboah **
Jean Gannon	Anthony Potenza	

*\*\*appointed on December 21, 2009*

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

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

#### *Nominations and Elections for Board Officers*

At the CPRB's January 14, 2010 meeting, nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board's Bylaws (Art. IV, § 1). Jason Allen was nominated for the Chair position, Ronald Flagg was nominated for the Vice-Chair position, Reverend Edward Smart was nominated for the Vice-Chair position, and Andrew Phelan, Jr. was nominated for the position of Secretary. Since Ronald Flagg was not present at this meeting, the Board agreed to postpone voting on the slate until its next meeting.

#### *Nominations and Elections for Committee/Task Force Chairs*

At the CPRB's January 14, 2010 meeting, nominations and elections were held for the chair and member positions of the Board's committees and task force. The Board agreed to not make any changes to the current chair and member positions. The slate was presented, voted on, and approved unanimously.

#### *Appointments, Re-appointments, and Resignations*

On December 21, 2009, the City of Albany's Common Council re-appointed Jean Gannon as a member of the CPRB to serve a three-year term which will expire on October 26, 2012.

On December 21, 2009, the City of Albany's Common Council appointed Akosua Yeboah as a member of the CPRB to serve a three-year term which will expire on October 26, 2012.

#### *Committees and Task Force*

The following committees and task force were operational in the first quarter of 2010:

<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 Ronald Flagg Jean Gannon Marilyn Hammond

Anthony Potenza  
Reverend Edward Smart  
Akosua Yeboah

*Mediation* Jason Allen (Chair)

*Police Department Liaison-  
Policy Review/  
Recommendations* Andrew Phelan, Jr. (Chair)  
Jason Allen (*ex-officio*)  
Anthony Potenza

*Public Official Liaison* Ronald Flagg (Chair)  
Jason Allen (Co-Chair)  
Marilyn Hammond  
Andrew Phelan, Jr.  
Anthony Potenza

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

The following occurred during the first quarter of 2010:

#### **BY-LAWS AND RULES/MEDIATION**

During the first quarter of 2010, the Board took further steps toward determining how long a complaint should remain open until it is closed. According to Board legislation, there is a sixty (60) day standard cycle for complaints. However, the Board determined that this sixty day cycle may not be realistic and requested that the OPS gather data on how long it takes to process complaints. The Board asked the GLC to research other municipalities' timelines on processing complaints to further help determine a reasonable deadline for closing complaints. In January 2010, the OPS gave the Board a written report on how many investigations the OPS handled and the average number of days spent on each investigation. The initial findings of the report indicated that it takes approximately four and half months for the OPS to complete its investigations. The Board planned to meet with the Common Council to discuss the findings of the report and determine if the legislation should be amended.

On November 20, 2009, members of the Board and GLC staff met with APD union representatives and command staff to discuss the issues the union has with the mediation protocol. It was agreed that the Board's legislation may need to be revised based on the protocol. The Board's counsel, Patrick Jordan, agreed to draft up the revisions to the legislation.

#### **COMMUNITY OUTREACH**

On January 21, 2010, Chairman Jason Allen and Committee Chairman Reverend Edward Smart conducted an outreach meeting with the Center Square Neighborhood Association.

During the first quarter of 2010, an outreach meeting was scheduled with the New York Civil Liberties Union for February 24, 2010 at Albany Law School.

## **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. Ten (10) complaints were presented and reviewed in the first quarter of 2010.

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

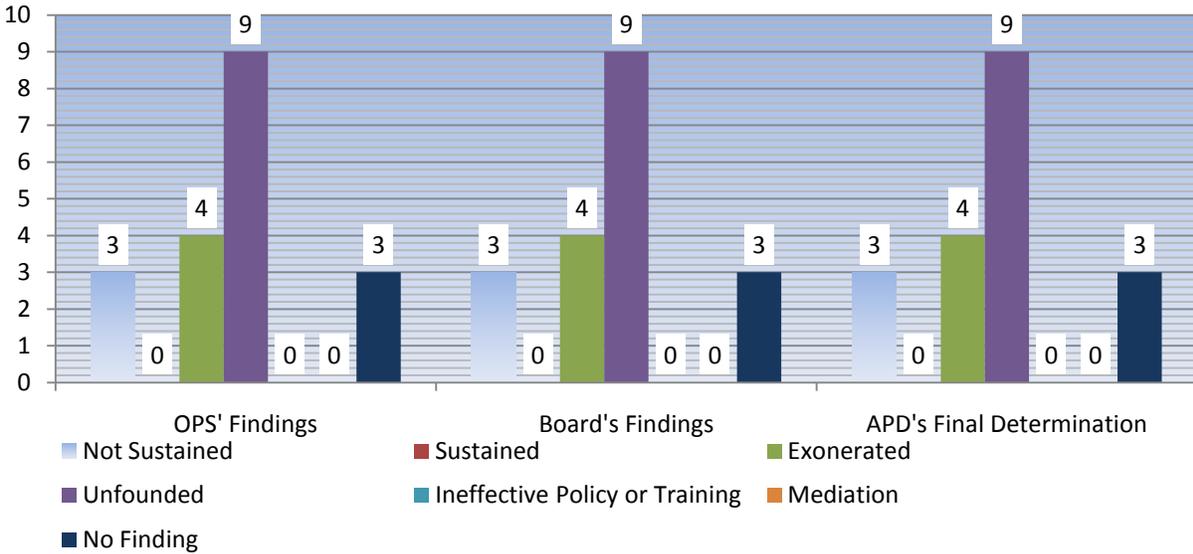
November 2009	Jason Allen, Jean Gannon, Anthony Potenza, and Reverend Edward Smart.
December 2009	Jason Allen, Jean Gannon, Marilyn Hammond, Andrew Phelan, Jr. and Anthony Potenza.
January 2010*	Jean Gannon, Andrew Phelan, Jr., Anthony Potenza, and Reverend Edward Smart.

\*The Board did not meet in December 2009 and therefore did not assign complaints for January 2010. Those members listed for complaint review in January 2010 are members who reviewed complaints during the meeting.

## **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 first quarter of 2010, the Board received twenty-five (25) new complaints in addition to its forty-eight (48) active complaints and eleven (11) suspended complaints. Monitors were appointed to investigate seven (7) of the twenty-five (25) new complaints. Of the seventy-three (73) complaints before the Board, the Board presented ten (10) complaints for review and rendered findings for the allegation(s) contained in all ten (10) complaints. These ten (10) complaints contained a total of nineteen (19) allegations of misconduct. As to the ten (10) complaints reviewed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all ten (10) cases.



**Figure 1:** Comparison of Findings Made by the Board, the OPS, and the Albany Police Department during the First Quarter of 2010.

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. 44-08/OPS No. C08-439** [monitor appointed]

- Nature of the Allegation(s):
- 1) Call Handling - the detective did not conduct the investigation in a timely fashion and "precious time" was lost in evidence collection;
  - 2) Call Handling - the detective failed to advise the complainant of any services by the police or Albany County Child Protective Services (CPS);
  - 3) Conduct Standards - the detective was disrespectful to the complainant and her son's father;
  - 4) Call Handling - the detective failed to update the complainant on the progress of the case and the detective went out on extended sick leave after being assigned the complainant's case;

5) Call Handling - the complainant was advised by the detective that he was collaborating with CPS which was difficult at times because the CPS worker's day ends when his begins; *and*

6) Call Handling - the police have yet to speak with the complainant's grandmother.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation;  
3) **Not Sustained** as to the conduct standards allegation;  
4) **Unfounded** as to the third call handling allegation;  
5) **Unfounded** as to the fourth call handling allegation; *and*  
6) **Exonerated** as to the fifth call handling allegation.

CPRB Finding(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation;  
3) **Not Sustained** as to the conduct standards allegation;  
4) **Unfounded** as to the third call handling allegation;  
5) **Unfounded** as to the fourth call handling allegation; *and*  
6) **Exonerated** as to the fifth call handling allegation.

APD Final Determination(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation;  
3) **Not Sustained** as to the conduct standards allegation;  
4) **Unfounded** as to the third call handling allegation;  
5) **Unfounded** as to the fourth call handling allegation; *and*  
6) **Exonerated** as to the fifth call handling allegation.

**CPRB No. 48-08/OPS No. C08-451** [monitor appointed]

Nature of the Allegation(s): Use of Force - the complainant's son was treated unfairly, unlawfully, no rights were read, and his civil rights were violated.

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

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

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

**CPRB No. 73-08/OPS No. C08-699** [no monitor appointed]

Nature of the Allegation(s): Call Handling - when the complainant told the officer who assaulted her, the officer did not help her nor did he call the EMS for her injury.

OPS preliminary finding(s): **Unfounded**

CPRB Finding(s): **Unfounded**

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

**CPRB No. 75-08/OPS No. C08-724** [monitor appointed]

Nature of the Allegation(s): Use of Force - the complainant alleged that a fight broke out in which the complainant was a victim and the officer came after the complainant and beat him up instead of going after the perpetrator.

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

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

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

**CPRB No. 1-09/OPS No. C08-841** [no monitor appointed]

Nature of the Allegation(s):

- 1) Call Handling - officers were not nice when they talked to the complainant's daughter and son-in-law, and wrote up a false report that the complainant fell on the ice;
- 2) Call Handling - officers did not assist the complainant; *and*
- 3) Conduct Standards - an officer told the complainant to get up real "nasty."

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

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

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

**CPRB No. 8-09/OPS No. C2009-015** [monitor appointed]

Nature of the Allegation(s): Use of Force - several APD officers assaulted the complainant.

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

CPRB Finding(s): **Unfounded**

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

**CPRB No. 17-09/OPS No. C2009-026** [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - officers damaged the complainant's door and lock;  
2) Call Handling - officers obtained and paid a locksmith to open the door; *and*  
3) Call Handling - officers had no right to enter the complainant's apartment.

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

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

2) **Unfounded** as to the second call handling allegation; *and*

3) **Exonerated** as to the third call handling allegation

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

2) **Unfounded** as to the second call handling allegation; *and*

3) **Exonerated** as to the third call handling allegation

**CPRB No. 20-09/OPS No. C2009-038** [no monitor appointed]

Nature of the Allegation(s): Call Handling - the complainant was given a ticket for double parking after she drove away.

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

CPRB Finding(s): **Exonerated**

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

**CPRB No. 34-09/OPS No. CC2009-062** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - an officer was unprofessional, rude, and used profanity.

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

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

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

**CPRB No. 36-09/OPS No. CC2009-073** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - officers were rude and nasty to the complainant during a traffic stop.

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

CPRB Finding(s): **Not Sustained**

APD Final Determination(s): **Not Sustained**

## **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 first quarter of 2010, Committee Chair Andrew Phelan, Jr. continued discussions with the OPS regarding the SOP for the Early Warning System. The SOP for the system should be completed by the Board's second quarter. The APD does not have a finalized version of the SOP. There are training issues that still need to be worked out. The system is operating and collecting data.

On January 27, 2010, the members of the Board participated in a demonstration of the APD's new camera and audio system. The OPS planned to have forty-seven (47) vehicles equipped with cameras. Reserve vehicles would not be equipped, but as cars are retired, the equipment will be recycled through. The SOP for the use of the cameras by the APD is complete with some changes needed, but the changes do not affect how the policy would be utilized.

## **PUBLIC OFFICIAL LIAISON**

On November 10, 2009, members of the Public Official Liaison committee met with Deputy Mayor Philip Calderone to update him on the Board's four (4) initiatives which included the Early Warning System, cameras in the APD vehicles, mediation, and grievance form process. At that meeting, the committee also gave an update on its monitor search and the OPS case review timelines. The Board discussed amending its legislation to increase the amount of time for complaint review and completion. It was determined that the current sixty (60) day turnaround required by the CPRB legislation is not realistic and should be changed. It was agreed that a follow-up meeting should be scheduled with members of the Board, APD union representatives and Deputy Chief Stephen Reilly to discuss the mediation protocols.

On November 18, 2009, the committee met with the Albany Common Council's Public Safety Committee to update them on the Board's four (4) initiatives as well as the Board's shortage of monitors and case review timelines.

In January 2010, the Board discussed the possibility of meeting with the Common Council's Public Safety Committee after it is re-organized because there are many newly elected Council members. The Board agreed to schedule a meeting with the Public Safety Committee in March.

## **TASK FORCE ON MONITORS**

During the first quarter of 2010, Albany Mayor Gerald Jennings approved the list of new monitors. The monitors' resumes were also forwarded to the Common Council's Public Safety Committee by Board Counsel Patrick Jordan. The Board met with the Public Safety Committee on November 18, 2009 at City Hall to further discuss the status of approving new monitors.

## **MEETINGS**

The Board met as a whole two times for the conduct of business during the first quarter. Meetings were held on November 12, 2009 and January 14, 2010. The November 12, 2009 meeting was held at Albany Law School, 80 New Scotland Avenue, in the Dean Alexander Moot Court Room. The January 14, 2010 meeting was held at the Albany Public Library, 161 Washington Avenue, in the Large Auditorium. A meeting had been scheduled for December 10, 2009, but was canceled due to a lack of quorum. 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**

Section 42-339 of Chapter 42, Part 33 of the Albany City Code requires that “the Government Law Center . . . provide, to CPRB members, and the members . . . undergo continuing education . . .”

### New Member Orientation

During the first quarter of 2010, Board member Akosua Yeboah 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. Yeboah on the APD’s organization and operation.

### APD Ride Alongs

Board members Andrew Phelan, Jr. and Reverend Smart participated in ride-alongs with the APD. The ride-alongs fulfill the Board’s continuing education into the police community relations requirement under the CPRB legislation.

## **OTHER**

### NACOLE Conference

Board member Marilyn Hammond and Coordinator of the Board Sharmaine Moseley attended the annual NACOLE conference, which was held in Austin, Texas. At its November 12, 2009 meeting, each Board member was given a flash drive with information from the conference to review. Ms. Hammond informed the Board that mediation was discussed at length at the conference, since many police review boards do have mediation. Those boards that do utilize mediation discussed how effective it could be. At the conference, Ms. Hammond discussed the possibility of the CPRB developing an effective mediation program in the future. At least fifty (50) percent of this year’s attendees were officers. The Board also discussed the possibility of having more representation from the APD at future NACOLE conferences.

## **GOVERNMENT LAW CENTER**

During the first quarter of 2010, 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:

- Coordinated, scheduled, and engaged in a meeting between the Board and City officials regarding Board initiatives.
- Coordinated, scheduled, and engaged in a meeting and discussion with the Albany Common Council's Public Safety Committee and the Board.
- Coordinated, scheduled, and engaged in a meeting between the Board, APD Union representatives, City officials, and APD Command Staff.
- Coordinated, scheduled and conducted a new Board member orientation.
- Arranged logistics for Board member participation in a demonstration of the camera system with Commander Matos and the APD Computer and Technology Unit.
- Arranged logistics for Board member Akosua Yeboah to undergo required orientation training.
- Arranged logistics for a meeting between the Board's Outreach Committee and the Center Square Neighborhood Association.
- Arranged logistics for an upcoming meeting between the Board's Outreach Committee and the New York Civil Liberties Union.
- Forwarded correspondence from the New York Civil Liberties Union regarding the complaint interview process to members of the Board.
- Forwarded to the Board revised copies of its committees/task force list, member contact information list, and 2010 meeting schedule.
- Contacted the NACOLE conference Treasurer and arranged for a refund for Board member Jean Gannon.
- Made copies of NACOLE conference materials onto a flash drive for the Board.
- Distributed the flash drive to the Board.
- Interviewed and hired one (1) Albany Law School student intern to assist in providing administrative and staff support services to the Board.
- Drafted and forwarded correspondence to Chief Tuffey requesting the APD's final determinations for complaints reviewed by the Board.

- Forwarded correspondence to the Board from Chief Tuffey on the APD's final determinations for complaints reviewed by the Board.
- Coordinated and scheduled Board member ride-alongs with the Albany Police Department.
- Drafted and forwarded correspondence to the Mayor and the Common Council regarding the vacancies on the Board.
- Drafted and forwarded correspondence to Deputy Chief Reilly regarding CPRB No. 66-08.
- Drafted and forwarded correspondence to the Albany Law Career Center in regard to the student work study positions available with the CPRB.
- Drafted and forwarded to the Board for review its Fourth Quarterly Report for 2008.
- Notified 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 two (2) regular monthly meetings, including: securing dates, times, and locations for each meeting, and providing notice to the affected parties and to the public;
- Attended two (2) regular monthly meetings, three (3) committee/task force meetings, and one (1) demonstration at the APD;
- 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 finding 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 had a very active first quarter, which included: holding two (2) regular monthly meetings; three (3) committee/task force meetings; one (1) outreach meeting; one (1) APD demonstration of its new camera system; and reviewing ten (10) complaints. In addition, the Board continued to work closely with the APD towards the enactment of the mediation program, the use of cameras in police vehicles, and the Early Warning System.

Respectfully submitted,

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

Dated: February 1, 2010