

City of Albany

CITIZENS' POLICE REVIEW BOARD

Quarterly Report February 1, 2002

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



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

February 1, 2002

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 that law requires that the Government Law Center of Albany Law School submit quarterly reports containing "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 first quarterly report so submitted in the year 2002.

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 with respect to the new Board. Many of these are discussed, as appropriate, below.

ORGANIZATION OF THE BOARD

The following members constituted the Board during the first quarter:

Dr. Manuel Alguero
Rev. Kenneth Cox
Dr. Morris Eson
Marilyn Hammond
Judith Mazza
Herman Thomas
Eleanor Thompson
Paul Weafer, Esq.
Michael Whiteman, Esq.

In December of 2001, Dr. Morris Eson submitted his letter of resignation to the Common Council effective March 1, 2002.

The Board's permanently elected officers are:

Chair	Kenneth Cox
Vice -Chair	Herman Thomas
Secretary	Michael Whiteman

The following committees were operational during the first quarter, with each Board member serving on at least one committee:

Complaint Review	Judith Mazza Herman Thomas Eleanor Thompson Paul Weafer Michael Whiteman
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Outreach	Kenneth Cox Judith Mazza Herman Thomas
Complaint Form	Manuel Alguero Kenneth Cox Morris Eson Eleanor Thompson Paul Weafer
Operating Procedures	Marilyn Hammond Judith Mazza Paul Weafer Michael Whiteman

All committees were active this quarter. In general, the following has been accomplished during the first quarter:

- Dr. Manuel Alguero completed the Spanish version of the Citizen Complaint Form (see attached). The form was approved by the Board and copies were made and distributed to the Police Department, the City Clerk, each branch of the Albany Public Library, community groups and organizations that have agreed to distribute the forms and/or assist in filling out and filing complaints, and any interested parties who wished to obtain a copy of the Spanish version of the form. The form was also posted to the CPRB Web site at: <http://www.als.edu/glc/cprb>.
- At its December 3, 2001 meeting the Board proposed an amendment to its operating procedures, re-lettering former Subdivision I to new Subdivision J and adding a new Subdivision I in Section II of the CPRB Operating Procedures adopted by the Board on August 20, 2001. The new subdivision provides for the appointment of a Committee on Complaint Review to consist of a Chair and four committee members. The Chair of the Committee shall serve for a term of one year as a permanent committee member and the remaining four committee members shall serve on a rotating basis with two of the four members being replaced at each monthly meeting. Under the amended procedures adopted by the Board at its January 14, 2002 meeting, each committee member is responsible for presenting one complaint to the Board at each monthly meeting.
- The Public Outreach Committee coordinated a public education and outreach meeting with the Personal Safety and Off-Campus Affairs Division of SUNY Albany's University Police Department on November 14, 2001. The meeting was attended by Marilyn Hammond and a member of the Government Law Center staff. At the meeting, Ms. Hammond gave a brief presentation about the Board and the complaint review process, responded to questions from meeting participants and distributed copies of the Citizen Complaint Form, the CPRB and Mediation Program brochures and a copy of the legislation creating the Board.

- The Board's liaisons met with the Police Commissioner, the Mayor and reached out to the new union leadership.
- At its January 14, 2002 meeting, the Board adopted its annual report drafted by the Government Law Center.
- Michael Whiteman prepared a report for the Board summarizing his experiences at the NACOLE (National Association for Civilian Oversight of Law Enforcement) Conference that both he and Eleanor Thompson attended in Denver, Colorado from October 9-12, 2001. The report contained reference materials from the conference and included the following recommendations: one member of the CPRB be designated a regular member of NACOLE on a continuing basis; other members of the Board be as active with their associate memberships as time and interest permits; and the City send Commander Breen, Lieutenant Bruno and other members of the Police Department to future NACOLE meetings.
- The Board met as a whole three times for the conduct of business during the first quarter. All three meetings were held at the Albany Public Library on Washington Avenue. Meetings were held on November 5, 2001, December 3, 2001, and January 14, 2002. There was a public comment period at each meeting, and the meetings largely consisted of a discussion of committee work and the review of complaints.
- At its November 5, 2001 meeting, the Board voted in favor of changing its monthly meetings from the first to the second Monday of every month so as not to conflict with the monthly meetings of the Common Council, and to encourage media participation at Board meetings. The official meeting time remains 7:00 p.m. and meetings will continue to be held at the Albany Public Library when space is available. The Community Room at Henry Johnson Blvd will be the alternate meeting location.

TRAINING

Section 42-339 of the City Code requires that "the Government Law Center . . . provide, to CPRB members, and the members shall undergo continuing education . . ."

During the first quarter, the Board participated in the following training programs:

- November 26, 2001 - the board attended a two-hour mediation training session facilitated by the Government Law Center's Mediation Coordinator Karleen Karlson, Esq.
- December 3, 2001 - the board attended "Revisiting the Law," a two-hour training refresher on Chapter 42, Part 33 of the Albany City Code facilitated by the staff of the Government Law Center.
- January 9, 2002 - the board attended media training conducted by national media trainer Margie Elsberg.

Upcoming training programs include an assessment of the Board's first year of operation and a session on developing the Board's monitoring process.

STATISTICS

Section 42-340(C) of the City Code creating the Board, charges the Board with providing "statistics and summaries of citizen complaints, including a comparison of the [Board's] findings with the final determinations of the [Police] Department."

During the first quarter, the Board received 17 new complaints, in addition to the 14 pending cases before the Board that had not been closed. Monitors were appointed to nine of the 17 cases. Of the 31 active complaints before the Board, the Board voted unanimously not to review one complaint pursuant to its authority under § 42-342 (C) of the City Code, voted unanimously to close one complaint "without prejudice" after several unsuccessful attempts to schedule a mediation that was agreed to by both complainants and the officer(s), and reviewed 10 cases. The following is a summary of those cases:

Complaint No. 9-01

Nature of Allegation(s): Failure to inform the complainant of arrest

OPS Finding: Unfounded

CPRB Finding: Unfounded

Complaint No. 16-01 [monitor appointed]

Nature of Allegation(s): 1) Officer(s) attempted to enter the complainant's residence without permission and 2) Unnecessary use of force (officer(s) maced the complainant in the face and pushed the complainant down the stairs)

OPS Findings: "Justified" as to both allegations

CPRB Findings: "Exonerated" as to both allegations

Complaint No. 18-01 [monitor appointed]

Nature of Allegation(s): 1) Complainant was improperly issued tickets for failure to signal, failure to comply, unlicensed operation and speeding and 2) Officer(s) used derogatory language toward the complainant

OPS Findings: "Justified" as to the first allegation and "not sustained" as to the second allegation

CPRB Findings: "Exonerated" as to the first allegation and "not sustained" as to the second allegation

Complaint No. 19-01

Nature of Allegation(s): 1) Officer(s) committed perjury during complainant's criminal proceedings and 2) Officer(s) denied the existence of audio evidence related to the complainant's criminal case, which the complainant alleged did exist

CPRB Action: Voted not to accept and review the complaint pursuant to § 42-342(C) of the City Code. Vote taken at the Board's January 14, 2002 meeting.

Complaint No. 20-01 [monitor appointed]

Nature of Allegation(s): Use of force (complainant was poked in the chest and stomach with a night stick, and was punched in the face); Officer(s) used derogatory language toward the complainant

OPS Finding: "Unfounded"

CPRB Finding: "Unfounded"

Complaint No. 21-01

Nature of Allegation(s): Use of force (complainant's hand cuffs were too tight, officer(s) held the complainant's arm "kind of tight," officer(s) yanked the complainant out of a police car causing the complainant's head to strike the car and a scrape to the complainant's shoulder)

OPS Action: Recommended that mediation take place between the parties. Both the complainant and the officer(s) agreed to participate in the mediation on September 17, 2001.

CPRB Action: Unsuccessful attempts to contact the complainant to schedule the mediation were made by the Board on September 26, 2001, November 1, 2001 and January 4, 2002. At its January 14, 2002 meeting, the Board voted unanimously to "close the case without prejudice," allowing the complainant the opportunity to reopen the case by contacting the Board.

Complaint No. 22-01 [monitor appointed]

Nature of the Allegation(s): 1) Complainant was improperly stopped for speeding, failure to comply, operating out of class and questioned about officer involved in a prior stop of the complainant and 2) Officer(s) used derogatory language toward the complainant and pushed the complainant

OPS Findings: "Justified" as to the first allegation and "unfounded" as to the second allegation

CPRB Findings: "Exonerated" as to the first allegation and "unfounded" as to the second allegation

Complaint No. 23-01

Nature of Allegation(s): 1) Use of force (officer(s) put the complainant in a headlock) and 2) Use of force (officer(s) maced the complainant in the face)

OPS Findings: "Not sustained" as to the first allegation and "exonerated" as to the second allegation

CPRB Findings: "Not sustained" as to the first allegation and "exonerated" as to the second allegation

Complaint No. 25-01

Nature of Allegation(s): Officer directed racial comments toward the complainant

OPS Action: "Unfounded"

CPRB Action: "Unfounded"

Complaint No. 30-01 [monitor appointed]

Nature of Allegation(s): 1) Unnecessary use of force (officer poked the complainant in the chest with a flashlight, complainant's arm was bruised during arrest, complainant's eyeglasses were broken and the complainant lost some personal property during the incident) and 2) Unlawful arrest

OPS Findings: "Unfounded" as to the first allegation and "exonerated" as to the second allegation

CPRB Findings: Review tabled at the Board's January 14, 2002 meeting due to time constraints.

At the Board's October 15, 2001 meeting, the Board recommended that the Albany Police Department implement a policy aimed at eliminating police department action in retrieving rental property involved in a landlord-tenant dispute, and that officer(s) be trained with respect to this policy. This recommendation was in response to a complaint filed with the Board, which alleged, in part, that police officer(s) entered the complainant's home without a search warrant to retrieve property for the complainant's tenant. The Board memorialized its recommendation in a letter to Commissioner John C. Nielsen on December 3, 2001. The Board received correspondence from Lieutenant Anthony Bruno, dated January 9, 2002, in response to this letter notifying the Board that the Albany Police Department was in the process of reviewing department policies and procedures, as well as the New York State Penal Law Criminal Procedure Law, Civil Law and case law with respect to the Board's recommendation.

GOVERNMENT LAW CENTER

During the first quarter, 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:

- Drafted the Board's 2001 Annual Report, forwarded the draft to the Board for its comment and approval, and submitted the approved report to the Mayor, the Common Council and the Chief of Police.
- Received and reviewed SUNY Albany's School of Criminal Justice/Hindelang Criminal Justice Research Center's preliminary report concerning complainant satisfaction with the complaint review process submitted in November of 2001 and January 2002.
- At the Board's request, assisted Dr. Alguero in finalizing the Spanish version of the complaint form; distributed copies of the form to complainants, the Police Department, each branch of the Albany Public Library, community groups and organizations that have agreed to distribute the form and/or assist in filling out and filling a complaint, and any other interested parties; and posted the form to the Board's Web site at: <http://www.als.edu/glc/cprb>.
- Notified the Board of the resignation of Monitor Linda M. Davis, Esq., whose resignation was prompted by her relocation outside of the state.
- Arranged logistics and coordinated [public] notice for Board meetings.
- Arranged logistics for and coordinated public outreach meetings.
- Arranged logistics for and coordinated Board training programs, including securing dates, times, locations, speakers and materials.

- Attended Board meetings, outreach meetings and training programs.
- Designed, provided content for, and maintained the Board's Web site.
- Conducted a monthly inventory of complaints filed with the Board, including a summary of case status, recommendations and pending requests to the Chief of Police/Commissioner of Public Safety. Reported updated information to the Board at each of its first quarter meetings.
- Provided various administrative functions including:
 - ▶ assisted with typing the amended language into the Board's Operating Procedures;
 - ▶ assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police/Commissioner of Public Safety;
 - ▶ conducted daily file accounting and inventory;
 - ▶ received and logged-in complaints, opened and closed case files;
 - ▶ prepared and assembled monthly meeting packets for Board members, including photocopying complaints, reports and accompanying documents for review;
 - ▶ transcribed minutes of monthly meetings;
 - ▶ scheduled regular meetings, outreach meetings and training dates, times and locations;
 - ▶ coordinated training speakers and materials;
 - ▶ maintained regular communications with Board members; and
 - ▶ answered inquiries from the community about the CPRB and the complaint review process.

CONCLUSION

The Board had a very active first quarter finalizing, distributing and posting to the Web site the Spanish version of the complaint form; continuing its review of complaints; participating in ongoing training by attending mediation and media training as well as receiving a refresher on Chapter 42, Part 33 of the City Code; maintaining its ongoing program of public outreach and education by meeting with SUNY Albany's Personal Safety and Off-Campus Affairs Division of the University Police Department, meeting with the Mayor and the Police Commissioner; reaching out to the new Union leadership; and holding public meetings.

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: April 9, 2002