

# City of Albany

# CITIZENS' POLICE REVIEW BOARD

## Quarterly Report November 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

November 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 the 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 fourth 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 Board. Many of these are discussed, as appropriate, below.

## ORGANIZATION OF THE BOARD

The following members constituted the Board during the fourth quarter:

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

The Board's permanently elected officers are:

Chair	Kenneth Cox
Vice-Chair	Herman Thomas
Secretary	Michael Whiteman

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

Complaint Review	Manuel Alguero Barbara Gaige Marilyn Hammond Judith Mazza Herman Thomas Eleanor Thompson Paul Weafer Michael Whiteman
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Outreach/Education            Kenneth Cox  
   Judith Mazza  
   Herman Thomas

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

- Pursuant to the Board's Operating Procedures (Section II Review of Complaints, Subsection I), each of the four appointed members of the Committee on Complaint Review, in addition to the Chair of the Committee, was responsible for presenting at least one complaint at each meeting. Twenty (20) complaints were presented and reviewed during the fourth quarter, and the following Board members served on the committee:

August 2002                    Manuel Alguero, Barbara Gaige, Judith Mazza,  
   Herman Thomas and Paul Weafer

September 23,  
2002                                Manuel Alguero, Barbara Gaige,, Marilyn Hammond,  
   Herman Thomas and Paul Weafer

September 30,  
2002                                Judith Mazza, Eleanor Thompson, Michael Whiteman  
   and Paul Weafer

October 2002                    Manuel Alguero, Barbara Gaige, Judith Mazza, Paul  
   Weafer and Michael Whiteman

- On September 13, 2002, Judith Mazza met with Justina Cintrón, Staff Attorney at the Government Law Center, to discuss the Board's public outreach/education initiatives. Among the items discussed, a suggestion was made to draft articles about the Board, the complaint review process and the Board's mediation program for submission to the area newspapers and community organization newsletters; to coordinate outreach meetings with the community organizations to update the organizations on the Board's activities in its second year of operation; and to schedule regular liaison meetings with the Mayor, the Common Council, the Union leadership, and the rank and file of the Albany Police Department.
- The Board met as a whole four times for the conduct of business during the fourth quarter. However, business was not conducted at one meeting because a quorum of the Board was not present. Three of the four

meetings were held at the Albany Public Library on Washington Avenue. The fourth meeting was held in the UHA Boardroom (Room 300) at Albany Law School. Meetings were held on August 12, 2002, September 23, 2002, September 30, 2002 and October 7, 2002. There was a public comment period at each meeting, and the meetings largely consisted of the review of complaints.

- The Board continues to meet on 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 Board will maintain its 6:00 p.m. meeting time in 2003. Meetings will continue to be held at the Albany Public Library on Washington Avenue when space is available. The Community Room at 200 Henry Johnson Boulevard remains the primary 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 . . .”

At the Board’s request, training was suspended during the fourth quarter for the month of August. Although training was expected to resume in September 2002, it will resume in October 2002. From October 31 through November 3, 2002, eight members of the Board will attend a three-day conference sponsored by the National Association for Civilian Oversight of Law Enforcement (NACOLE) in Cambridge, Massachusetts addressing various issues related to civilian oversight of law enforcement.

An Open Meetings Law(OML)/Freedom of Information Law (FOIL) refresher or a session on collective bargaining/labor law will be scheduled for November 2002.

## COMPLAINT SUMMARIES AND 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 fourth quarter, the Board received 10 new complaints, in addition to 30 pending complaints, three (3) complaints that were suspended from review in 2001 and one (1) complaint that was suspended in 2002. Monitors were appointed with respect to four (4) of the 10 new complaints. Of the 40 active complaints before the Board, the Board reviewed 20 complaints and closed 15. The following is a summary of those complaints:

Complaint No. 37-01/OPS No. C01-490

Nature of Allegation(s): 1) Illegal/false arrest;  
2) Falsification of police arrest reports; *and*  
3) Illegal detention on at least eight (8) separate occasions, resulting in three (3) arrests.

OPS Preliminary Findings: 1) "Exonerated" as to the illegal/false arrest allegation and the allegation of falsification of police arrest reports; *and*  
2) "Unfounded" as to the illegal detention allegation.

CPRB Findings: "Exonerated" as to all three allegations.

APD Final Determination: 1) "Exonerated" as to the illegal/false arrest allegation and the allegation of falsification of police arrest reports; *and*  
2) "Unfounded" as to the illegal detention allegation.

Complaint No. 8-02/OPS No. C02-84 [monitor appointed]

Nature of Allegation(s): 1) Civil rights violation -an Albany police officer improperly searched the pockets of a passenger in the complainant's vehicle, removing and opening his wallet to locate identification after a pat down search had already been conducted and no weapons were found;  
2) Racially-motivated traffic stop - the complainant and passenger are both African-American; *and*  
3) Failure to properly report the reason for the traffic stop.

OPS Preliminary Findings: 1) "Exonerated" as to the civil rights violation allegation; *and*  
2) "Unfounded" as to the allegation that the traffic-stop was racially-motivated,

OPS did not include the failure to properly report allegation in its findings.

CPRB Findings: 1) "Sustained" as to the civil rights violation allegation;  
2) "Unfounded" as to the allegation that the traffic-stop was racially-motivated; *and*  
3) "Ineffective Policy or Training" as to the failure to properly report allegation.

APD Final Determination: 1) "Exonerated" as to the civil rights violation allegation; *and*  
2) "Unfounded" as to the allegation that the traffic-stop was racially-motivated,  
The APD did not include the failure to properly report allegation in its findings.

Complaint No. 10-02/OPS No. C02120 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - in effecting an arrest of the complainant, Albany police officers grabbed the complainant's arms, pulled them behind her back, handcuffed her, shoved her against the wall and dragged her to the police wagon; *and*  
2) Unprofessional conduct - police officers ridiculed the complainant about her profession.

OPS Preliminary Findings: 1) "Exonerated" as to the excessive use of force allegation; *and*  
2) "Sustained" as to the unprofessional conduct allegation.

CPRB Findings: 1) "Exonerated" as to the excessive use of force allegation; *and*  
2) "Sustained" as to the unprofessional conduct allegation.

APD Final Determination: 1) "Exonerated" as to the excessive use of force allegation; *and*  
2) "Sustained" as to the unprofessional conduct allegation.

Complaint No. 11-02/OPS No. C02-122

Nature of Allegation(s): Harassment/Unprofessional conduct - while the complainant was en route home, a police officer grabbed the complainant by the arm, pulled him into the street, pushed him, spoke to the complainant in a threatening manner, yelled and told him to "shut up."

OPS Preliminary Finding: "Exonerated."

CPRB Finding: "Exonerated."

APD Final Determination: "Exonerated."

Complaint No. 15-02/OPS No. C02-169 [monitor appointed]

Nature of Allegation(s): 1) Unjustified traffic stop - a police officer stopped the complainant because of his race, searched his person, searched his vehicle without permission, and improperly issued him a ticket; *and*  
2) Improper use of force - during the stop, the officer was rude to the complainant and pushed him against the car.

OPS Preliminary Findings: 1) "Exonerated" as to the unjustified traffic stop allegation; *and*  
2) "Not Sustained" as to the improper use of force allegation.

CPRB Action: At its October 7, 2002 meeting, the Board voted unanimously to return the complaint to OPS for further investigation pursuant to its authority under § 42-343(F)(2) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 16-02/OPS No. C02-176

Nature of Allegation(s): Unprofessional conduct - while at traffic court inquiring about a transcript, an officer told the complainant to stop bothering people; threatened to arrest the complainant; failed to ask others if they had been harassed or bothered by the complainant; and failed to ask the complainant if he had been conducting court business.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: "Unfounded."

Complaint No. 18-02/OPS No. C02-205 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - the complainant was assaulted by three Albany police officers; *and*  
2) False arrest - the complainant was falsely arrested for aggravated unlicensed operation of a vehicle.

OPS Preliminary Findings: "Exonerated" as to both allegations.

CPRB Findings: "Exonerated" as to both allegations.

APD Final Determination: "Exonerated" as to both allegations.

Complaint No. 19-02/OPS No. C02-208 [monitor appointed]

Nature of Allegation(s): Unprofessional conduct - a police officer was threatening and rude to the complainant during an incident at a nightclub where the complainant alleged she saw the officer kick in the door, and refused to produce a name and badge number.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: "Unfounded."

Complaint No. 20-02 /OPS No. C02-208 [monitor appointed]

Nature of Allegation(s): Improper stop, search and detention - the complainant was stopped and questioned about her affiliation with an African-American male and about the social security cards that she was carrying; her person was searched and she was detained for 35 to 40 minutes before she was permitted to leave.

OPS Preliminary Finding: "Not Sustained."

CPRB Finding: "Not Sustained."

APD Final Determination: "Not Sustained."

Complaint No. 22-02/OPS No. C02- [monitor appointed]

Nature of Allegation(s): 1) Dangerous use of a gun - a police officer "aimed and cocked" his weapon at the complainant and her niece during a chase of the complainant's son into the complainant's house, and, while effecting the arrested of the complainant's son in the complainant's house, the officer continued pointing the gun at her son in the house where two of her grandchildren were present;

2) Rudeness - when the complainant asked the officer why her son was being arrested, she was told to "shut up" and that no one had to tell her anything; *and*

3) Wrongful/warrantless arrest in a private residence - to effect the arrest of the complainant's son, an officer kicked in the door to the complainant's residence as it was being closed by her son, entered the house and arrested her son without an arrest warrant.

OPS Preliminary Findings: "Unfounded" as to all allegations.

CPRB Action: At its September 30, 2002 meeting, the Board voted unanimously to return the complaint to OPS for further investigation pursuant to its authority under § 42-343(F)(2) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 23-02/OPS No. C02-212 [monitor appointed]

Nature of Allegation(s): Excessive use of force - during his arrest, the complainant was "rushed" by police officers, hit with a flashlight in his face and chest, hit with a nightstick and kicked in the head.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: "Unfounded."

Complaint No. 27-02/OPS No. C02-247 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - police officers grabbed the complainant, punched her, dragged her and dropped her outside a nightclub; *and*

2) Unprofessional/improper conduct - police officers called the complainant names and touched her breasts while removing her from the nightclub.

OPS Preliminary Findings: "Exonerated" as to both allegations.

CPRB Findings: "Exonerated" as to both allegations.

APD Final Determination: "Exonerated" as to both allegations.

Complaint No. 32-02/OPS No. C02-301 [monitor appointed]

Nature of Allegation(s): 1) Neglect of official duties - during the scene of an accident, two police officers refused to take the complainant's statement regarding the accident and told her to leave; refused to look at the area where the accident occurred; permitted the other driver to leave the scene immediately without being tested or checked, but held the female driver at the scene for approximately one hour; and failed to offer the female driver medical attention or assist her with a tow;

2) Unprofessional conduct - the two officers at the scene were "laughing and socializing" with the other driver and his passengers; did not take the complainant seriously, and discounted the seriousness of the accident; *and*

3) Rudeness - the officers were "extremely" rude to the female driver and the complainant.

OPS Preliminary Finding: "Unfounded."

CPRB Action: At its October 7, 2002, the Board voted unanimously to refer the complaint to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 33-02/OPS No. C02-291 [monitor appointed]

Nature of Allegation(s): Excessive use of force - complainant's nephew was held by four police officers and "punched" repeatedly.

OPS Preliminary Finding: "Exonerated."

CPRB Action: At its October 7, 2002, the Board voted 7-1 to refer the complaint to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 34-02/OPS No. C02-309

Nature of Allegation(s): Improper conduct - in an attempt to assist an attorney in serving court papers on a woman believed to be staying at a shelter serviced by a local community services organization, police officers remained in the office and "badgered" the organization's receptionist for more than two hours; and threatened to charge the organization with obstruction of justice.

OPS Preliminary Finding: "Sustained."

CPRB Finding: "Sustained."

APD Final Determination: "Sustained."

Complaint No. 35-02, 44-02/OPS No. C02-383, 384, 385

Nature of Allegation(s): Harassment - the complainant is being harassed by her neighbors.

OPS Preliminary Finding: "Unfounded."

CPRB Finding: "Unfounded."

APD Final Determination: "Unfounded."

Complaint No. 36-02/OPS No. C02-319

Nature of Allegation(s): Unprofessional conduct - en route to his apartment and observing three police officers stop and frisk two African-American teenagers, the complainant was called an "a\*shole," shoved twice, called a "moron" and told to "go home."

OPS Preliminary Finding: "Not Sustained."

CPRB Action: At its October 7, 2002, the Board voted 7-1 to refer the complaint to mediation pursuant to its authority under § 42-343(F)(4) of Chapter 42, Part 33 of the Albany City Code.

Complaint No. 37-02/OPS No. C02-320 [monitor appointed]

Nature of Allegation(s): 1) Use of force - during a physical confrontation between the complainant's son and a police officer, the officer "threw" the complainant against a car; *and*

2) Racially-motivated arrest - the complainant was arrested because of racial discrimination.

OPS Preliminary Findings: "Exonerated" as to both allegations.

CPRB Findings: "Exonerated" as to both allegations.

APD Final Determination: "Exonerated" as to both allegations.

Nature of Allegation(s): Unprofessional conduct/rudeness - while complainant's vehicle was stopped in a parking lot on South Pearl, police officers searched the complainant and three passengers, police officers pulled the occupants out of the car; "yelled" at them; searched them; and used profane language to refer to them and the town in which they reside.

OPS Preliminary Finding: "No Finding."

CPRB Finding: "No Finding."

APD Final Determination: "No Finding."

#### GOVERNMENT LAW CENTER

During the fourth 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:

- Coordinated and facilitated notice, scheduling and initial communications with complainants, police officers, Commander Anthony Bruno and Commissioner John Nielsen for five new complaints, in addition to the previous three complaints, referred to the Board's Mediation Coordinator for mediation or "informal" mediation.
- Met with Assistant Corporation Counsel on September 4, 2002 to discuss outstanding complaints and cases referred to mediation.
- Participated in a meeting with the Deputy Mayor, Deputy Corporation Counsel and the Commissioner on September 6, 2002 to discuss a proposal for funding the CPRB's attendance at the Annual Conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE); a proposal for funding a part-time graduate student to assist the Government Law Center in providing administrative support to the Board; and the GLC's recommendation for the appointment of two new Board monitors.
- Met with a member of the Board's Community Education/Outreach Committee, Judith Mazza, on September 13, 2002 to discuss the Board's public outreach/education initiatives. Conducted follow-up scheduling of liaison meetings with the Mayor and the Commissioner; began

coordinating meetings with community organizations; forwarded the CPRB brochure to Ms. Mazza for revisions; drafted a new Board brochure for complainant's about what to expect at a CPRB meeting; and updated the CPRB Web site.

- Forwarded correspondence on the Board's behalf to the Mayor and the Common Council regarding the expiration of the terms of Barbara Gaige, Herman Thomas and Eleanor Thompson, and their reappointment to the Board.
- Arranged logistics and coordinated [public] notice for Board meetings.
- Attended Board meetings and provided a report of any activities related to Board business occurring since the Board's last meeting.
- Provided content for, updated 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 fourth quarter meetings.
- Provided various administrative functions including:
  - ▶ assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police/Commissioner of Public Safety and the Office of Professional Standards;
  - ▶ 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;
  - ▶ maintained regular communications with Board members; and
  - ▶ answered inquiries from the community about the CPRB and the complaint review process.

## CONCLUSION

The Board had an active fourth quarter, which included reviewing half of its 40 active complaints; discussing and developing new initiatives for its community outreach/education program; and holding its monthly 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: December 9, 2002