

City of Albany

CITIZENS' POLICE REVIEW BOARD

Fourth Quarterly Report November 1, 2005

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



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

November 1, 2005

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 Fourth Quarterly Report so submitted in the year 2005.

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 fourth quarter of 2005:

Jason Allen	Judith Mazza
Reverend Beresford Bailey	Herman Thomas
Ronald Flagg	Paul Weafer, Esq.
Barbara Gaige	Michael Whiteman, Esq.
Marilyn Hammond	

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

Chair	Barbara Gaige
Vice-Chair	Herman Thomas
Secretary	Ronald Flagg

The following committees were operational, with each member serving on at least one committee:

<i>By-Laws and Rules</i>	Paul Weafer (Co-Chair) Michael Whiteman (Co-Chair)
<i>Community Outreach</i>	Judith Mazza (Chair) Beresford Bailey Ronald Flagg Herman Thomas
<i>Complaint Review</i>	Judith Mazza (Chair) Jason Allen Beresford Bailey Ronald Flagg Barbara Gaige Marilyn Hammond Herman Thomas Paul Weafer Michael Whiteman

Mediation Barbara Gaige (Chair)
Jason Allen
Paul Weafer
Michael Whiteman

*Police Department Policy
Review/Recommendations* Jason Allen (Chair)
Marilyn Hammond
Judith Mazza

Public Official Liaison Ronald Flagg (Chair)
Barbara Gaige
Marilyn Hammond

The following occurred during the fourth quarter of 2005:

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the four (4) appointed members of the Committee on Complaint Review, in addition to the Chair of the Committee, shall be responsible for the presentation of a particular complaint to the Board at its monthly meetings as assigned by the Chair of the Committee. Five (5) complaints were presented and reviewed in the fourth quarter of 2005.

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

- August 2005 - Beresford Bailey, Ronald Flagg, Barbara Gaige, Paul Weafer, and Michael Whiteman.
- September 2005 - Beresford Bailey, Ronald Flagg, Barbara Gaige, Paul Weafer, and Michael Whiteman.
- October 2005 - Jason Allen, Judith Mazza, Herman Thomas, Paul Weafer, and Michael Whiteman.

COMPLAINT SUMMARIES AND STATISTICS

Section 42-340(C) 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 fourth quarter of 2005, the Board received five (5) new complaints in addition to its twenty-one (20) active complaints and six (6) suspended complaints. Monitors were appointed to three (3) of the five (5) new complaints. Of the thirty-one (31) complaints before the Board, the Board presented five (5) complaints for review and rendered findings for the allegation(s) contained in four (4) complaints. Board action was taken on one (1) complaint. The following is a summary of those complaints:

CPRB No. 08-04/OPS No. C04-203 [monitor appointed]

Nature of the Allegation(s): Unprofessional/Improper Conduct - during the course of a traffic stop, the complainant was approached by an Albany police officer in “an overly aggressive manner.” The officer, whose “demeanor was aggressive, condescending, and threatening,” immediately accused the complainant of drinking; forced him to submit to field sobriety tests under threat of “immediate and implied arrest if he did not comply”; detained him for “a very long time” before issuing him two traffic summonses; and made a “code worded racist comment.”

OPS Preliminary
Finding: **Not Sustained**

CPRB Finding: **Not Sustained**

APD Final
Determination: **Not Sustained**

CPRB No. 5-05/OPS No. C05-80 [monitor appointed]

Nature of the Allegation(s): Excessive Use of Force - in the midst of a snowball fight that took place while the complainant’s son was walking home from school, an Albany Police Officer, who was struck in the head with a snowball, “sprayed pepper spray” in the son’s face. As the complainant’s son was walking past another group of officers beating another kid, he was “attacked by pepper spray or mase [sic],” which hit his jacket. When the complainant’s son “told the officer . . . you messed my coat up[,] it cost a lot of money,” he was hit with a baton in the head, knees, neck, back, arms, and legs; “smacked in the face”; and “beaten on the floor.”

OPS Preliminary
Finding: **Exonerated**

CPRB Finding: **Exonerated**

APD Final
Determination: **Exonerated**

CPRB No. 7-05/OPS No. C05-92 [monitor appointed]

Nature of the Allegation(s): 1) Excessive Use of Force - following an attempt by the complainant to verbally break-up a physical altercation between three individuals, one of whom was later identified as an off-duty police officer, the officer involved in the altercation stated “alright, where’s the mouth”; began yelling in the complainant’s face; poked his finger into the complainant’s neck; and said “You

motherf*cking c*cks*cker, the only thing you are going to get is arrested.” The officer then stated “one more word out of you and I’ll arrest you”; “immediately . . . said, “No, you know what? Hands on the car you are under arrest”; “pushed [the complainant] against one of the police cars,” handcuffed him, and “then punched [him] in the right side, in the area of [his] kidney”; *and*

2) Arrest Authority & Procedures (False Arrest) - the complainant was “falsely charged . . . with disorderly conduct” in retaliation for exercising his First Amendment rights.

OPS Preliminary

Findings: 1) **Unfounded** as to the excessive use of force allegation;
and

2) **Exonerated** as to the false arrest allegation.

CPRB Action:

At its October 10, 2005 meeting, the Board voted unanimously, pursuant to its authority under § 42-343(F)(2) of the City Code, to request that the OPS conduct a more thorough and complete investigation of the complaint, including, but not limited to, an interview of the complainant, and interviews of any witnesses named by the complainant and any independent witnesses that can be identified and located.

CPRB No. 13-05/OPS No. C05-202 [monitor appointed]

Nature of the Allegation(s): Improper Vehicle Operation - an unmarked Albany police car suddenly and without warning or caution swerved into the complainant’s lane, causing her to run her car up onto the curb.

OPS Preliminary

Finding: **Not Sustained**

CPRB Finding: **Not Sustained**

APD Final

Determination: **Not Sustained**

CPRB No. 25-05/OPS No. C05-309

Nature of the Allegation(s): Call Handing (Unlawful Pat-Down Frisk and Vehicle Search/Use of Racial Slurs/Excessive Use of Force) - during a traffic stop of the complainant’s vehicle by officers of the Colonie Police Department, the complainant was pat-frisked; his vehicle was searched; he was subjected to racial slurs; punched; kicked; pepper sprayed; and tased.

OPS Preliminary
Finding: **No Finding**

CPRB Finding: **No Finding**

APD Final
Determination: **No Finding**

MEDIATION

On October 11, 2005, the Board received a copy of Lauri Stewart's report, "Citizen-Police Mediation in Albany: Recommendations for Developing a Strong Program." Ms. Stewart was brought to Albany in June of 2005 to consult on the Board's mediation program. The report of her findings will be forwarded to those individuals who participated in the meetings with Ms. Stewart, including members of the Albany Police Department, representatives of the police officers' unions, and community members, and to the Mayor's Office, Corporation Counsel's Office, Common Council, and any interested parties who would like to review the report.

POLICY REVIEW/REQUESTS/RECOMMENDATIONS

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

PUBLIC OFFICIAL LIAISON

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

MEETINGS

The Board met as a whole two times for the conduct of business during the fourth quarter. Meetings were held on September 12, 2005 and October 10, 2005. Both 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 third Monday of every month so as not to conflict with the monthly meetings of the Common Council, 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 . . ."

Although there were no Board training sessions held in the fourth quarter of 2005, a quarterly training schedule has been established for 2006. Proposed training sessions include:

Ethics in Citizen Oversight; How to Conduct a Thorough and Effective Review of an Internal Affairs Investigation; Dealing with Persons with Mental/Emotional/Substance Abuse Issues; *and* On Patrol.

REPORTS

At its September 12, 2005 meeting, the Board voted unanimously to approve its Second Quarterly Report for 2005 prepared and submitted by the Government Law Center.

OTHER

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

GOVERNMENT LAW CENTER

During the fourth quarter of 2005, the Government Law Center engaged in the following activities as directed by the local law and pursuant to its contractual obligations with the City of Albany:

- ▶ Attended a meeting with Deputy Mayor Calderone and members of the Public Official Liaison Committee.
- ▶ Responded to a request for access to information in the public copy of the Albany Police Department's Standard Operating Procedures. Faxed a copy of the SOP's cover sheet to the requesting party.
- ▶ Prepared and forwarded materials about the Board and the complaint review process to Chairperson Gaige for her November guest lecture to students participating in a criminal justice course at SUNY Albany.
- ▶ Prepared and forwarded a follow-up list of outstanding complaints to Assistant Corporation Counsel Patrick Jordan. The list included those complaints requiring the advice, guidance, and/or input of the Corporation Counsel's Office.
- ▶ Prepared and distributed term information, including appointment and reappointment information, to Board members.
- ▶ Forwarded term information to Assistant Corporation Counsel Patrick Jordan.
- ▶ Drafted and forwarded correspondence to Mayor Gerald Jennings and Albany Common Council President Helen Desfosses notifying them of the expiration of the terms of Board members Herman Thomas and Barbara Gaige.
- ▶ Drafted and forwarded correspondence to Deputy Mayor Calderone, estimating the expenses associated with sending one Board member to the Annual NACOLE (National Association for Civilian Oversight of Law Enforcement) Conference and inquiring as to how many Board members the City would be willing to send to the 2005 Conference.

- ▶ Drafted and forwarded thank you letters to all of the individuals who participated in the mediation meetings in June. Letters were also drafted and forwarded to the Mayor, Deputy Mayor, and Chairman of the Common Council's Public Safety Committee. Included with the letters was a complete copy of the materials distributed by Ms. Stewart at the meetings.
- ▶ Forwarded correspondence and new complaint information to the OPS from the complainant who filed CPRB No. 2-05/OPS No. C05-35.
- ▶ Received and forwarded to the Board the resignation letter of Vice-Chairman Herman Thomas.
- ▶ Reviewed a report prepared by the New York Civil Liberties Union - Capital Region Chapter on the interaction between mentally ill individuals and the Albany and Schenectady Police Departments.
- ▶ Reviewed the report prepared by Lauri Stewart.
- ▶ Updated the Board's website to include the Second Quarterly Report for 2005 and the Board's meeting minutes.
- ▶ Hired a student intern to assist in providing administrative and staff support services to the Board.

In addition, the Center performed the following administrative tasks:

- ▶ Scheduled the meeting of the Public Official Liaison Committee with the Deputy Mayor.
- ▶ Arranged logistics for and coordinated two regular monthly meetings, including: securing dates, times, and locations for each meeting, and providing notice to the affected parties and to the public;
- ▶ Prepared and assembled regular monthly meeting packets for Board members, including: photocopying complaints, reports, and accompanying documents for review;
- ▶ Prepared a summary of new complaints filed with the Board for presentation by the Chair of the Committee on Complaint Review at each monthly meeting;
- ▶ Prepared findings forms for the recording of Board determinations by members of the Committee on Complaint Review at each monthly meeting;
- ▶ Attended two regular monthly meetings and one committee 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;
- ▶ Forwarded complainant survey data forms to SUNY;
- ▶ 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 fourth 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;
- ▶ 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 steady fourth quarter, which included holding two regular monthly meetings and one public official liaison meeting.

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: November 1, 2005