

City of Albany

CITIZENS' POLICE REVIEW BOARD

Quarterly Report May 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

May 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 second 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 second quarter:

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

On March 1, 2002, Dr. Morris Eson resigned his seat on the Board.

On March 4, 2002, Barbara Gaige was appointed by the Common Council to assume the seat vacated by Dr. Morris Eson. Under § 42-335 of the law creating the Board, Ms. Gaige has been appointed to serve as a member of the Board for the remainder of Dr. Eson's unexpired term.

On March 11, 2002, Ms. Gaige completed the Board's orientation program as required by § 42-339 of law, allowing her to participate as a voting member of the Board, and was sworn in by the Mayor as the ninth member of the Albany Citizens' Police Review Board.

At the Board's March 11, 2002 meeting, Chairman Kenneth Cox reported that Dr. Manuel Alguero had been reappointed by the Mayor to a three (3) year term. Dr. Alguero's term will expire in October of 2004.

Chairman Cox has also been reappointed by the Common Council (Resolution No. 65.102.01R) to a three (3) year term. Chairman Cox's term will expire in October of 2004.

The Board's permanently elected officers are:

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| Chair | Kenneth Cox |
| Vice -Chair | Herman Thomas |
| Secretary | Michael Whiteman |

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

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

Both committees were active this quarter. In general, the following has been accomplished during the second 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 one complaint at each monthly meeting. Seventeen (17) complaints were presented and reviewed during the second quarter and the following Board members served on the committee:

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| February 2002 | Marilyn Hammond, Judith Mazza, Eleanor Thompson, Paul Weafer, and Michael Whiteman |
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| March 2002 | Manuel Alguero, Marilyn Hammond, Eleanor Thompson, Paul Weafer, and Michael Whiteman |
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| April 2002 | Barbara Gaige, Herman Thomas, Eleanor Thompson, Paul Weafer, and Michael Whiteman |
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- The Public Outreach Committee coordinated two public outreach/education meetings this quarter.
 - ▶ On February 12, 2002, Chairman Kenneth Cox, Judith Mazza and Eleanor Thompson met with One Hundred Black Men of the Capital Region. At the meeting, Chairman Cox, Ms. Mazza and Ms. Thompson 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.

- ▶ On March 13, 2002, Dr. Manuel Alguero, Barbara Gaige and Michael Whiteman met with the Albany Common Council. The meeting was coordinated by the Council's Public Safety Committee and the Board's presentation included discussion of the Board's progress since its inception, areas for improvement and the Board's First Annual Report.
- On April 27, 2002, Dr. Manuel Alguero gave a presentation about the Albany Citizens' Police Review Board at the Ninth Annual Capital District Community Conference on Criminal Justice hosted by the Center for Law and Justice.
- On February 22, 2002, Dr. Alguero, Chairman Cox and Morris Eson met with Commander Breen to follow up on police officer training. It was reported by the Commander that the police department has implemented an aggressive new training program and has added additional sensitivity training to the current training curriculum. In addition, the Commander reported that the police department is currently in the process of developing its Early Warning System and will keep the Board updated. Finally, the Commander reported that the Citizen Police Academy training was scheduled to begin in March and invited Board members, who may have missed a session or who would like a refresher, to attend.
- On April 30, 2002, Chairman Cox, Vice Chairman Herman Thomas and Paul Weafer met with Mayor Jennings and the Commissioner to update the Mayor and the Commissioner on the Board's activities.
- The Board met as a whole three times for the conduct of business during the second quarter. All three meetings were held at the Albany Public Library on Washington Avenue. Meetings were held on February 11, 2002, March 11, 2002, and April 8, 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.
- 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 decided to move back its official meeting time to 6:00 p.m. instead of 7:00 p.m. However, 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 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 second quarter, the Board participated in the following training programs:

- On February 25, 2002 - Dr. Alguero and Eleanor Thompson attended, "Emotional Survival for Law Enforcement," presented by Dr. Kevin Gilmartin, national trainer and police psychologist. The program was sponsored by the Albany Police Department.
- March 8, 2002 - March 11, 2002 - the Board's newest member, Barbara Gaige, completed the Board's orientation program.
- On March 26, 2002 - Ms. Gaige began the Police Department's Thirteen Week Citizen Training Academy.

A training session on developing the Board's monitoring process is scheduled for May 4, 2002 and the Board's first year assessment training program originally scheduled for the second quarter has been canceled. Training will not be scheduled for the months of June, July and August, but will resume in September.

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 second quarter, the Board received 17 new complaints, in addition to 22 pending complaints and three (3) complaints that remain suspended from review. Monitors were appointed to ten (10) of the 17 complaints. Of the 39 active complaints before the Board, the Board reviewed 17 complaints and closed 12. The following is a summary of those complaints:

Complaint No. 12-01 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force; 2) Unlawful entry into the complainant's residence; 3) false arrest; and 4) Unwarranted strip search

OPS Preliminary Findings: "Exonerated" as to the excessive use of force allegation, "Not Sustained" as to the unlawful entry into a private residence allegation and "Exonerated" as to the false arrest allegation.

CPRB Findings: "Exonerated" as to the excessive use of force allegation, "Not Sustained" as to the unlawful entry into a private residence allegation and "Exonerated" as to the false arrest allegation.

CPRB Action: At its March 11, 2002 meeting, the Board requested further investigation of the strip search allegation.

Complaint No. 14-01 [monitor appointed]

Nature of Allegation(s): 1) Inappropriate conduct on the road - an off-duty police officer would not yield to the complainant and prevented the complainant from passing; *and* 2) Unprofessional conduct - the off-duty officer called the complainant at home to question the complainant about the incident on the road

OPS Preliminary Findings: "Not Sustained" as to the allegation regarding inappropriate conduct on the road and "Sustained" as to the unprofessional conduct allegation.

CPRB Findings: "Not Sustained" as to the allegation regarding inappropriate conduct on the road and "Sustained" as to the unprofessional conduct allegation.

Final Determination: "Not Sustained" as to the allegation regarding inappropriate conduct on the road and "Sustained" as to the unprofessional conduct allegation.

Complaint No. 26-01

Nature of Allegation(s): Unwarranted stop, ticket and tow - the complainant was stopped, ticketed for unlicensed operation of a motor vehicle, and while stopped, had his license plate removed and motorcycle towed

OPS Preliminary Finding: "Exonerated"

CPRB Finding: "Exonerated"

Final Determination: "Exonerated"

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, the complainant's arm was bruised during arrest, the complainant's eyeglasses were broken and the complainant lost some personal property during the incident); *and* 2) Unlawful arrest

OPS Preliminary Findings: "Unfounded" as to the unnecessary use of force allegation and "Exonerated" as to the unlawful allegation.

CPRB Action: Review tabled at the Board's February 11, 2002 meeting due to time constraints.

Complaint No. 31-01

Nature of Allegation(s): Failure to return personal property to the complainant - the complainant's eyeglasses and hair tie were not returned by Booking

OPS Preliminary Finding: "Ineffective Policy or Training"

CPRB Finding: "Ineffective Policy or Training"

Complaint No. 32-01 [monitor appointed]

Nature of Allegation(s): 1) Improper search of the complainant's vehicle - consent was given and the complainant was told by the officer that it could not be revoked; 2) Use of derogatory language to refer to the complainant; *and* 3) Improper pat down search of the complainant and passenger

OPS Preliminary Findings: "Not Sustained" as to the improper vehicle search allegation and "Sustained" as to the use of derogatory language allegation.

CPRB Findings: "Sustained" as to the use of derogatory language allegation.

CPRB Action: At its April 8, 2002 meeting, the Board requested further investigation of both the improper vehicle and pat down search allegations.

Complaint No. 33-01 [monitor appointed]

Nature of Allegation(s): 1) Unnecessary use of force - officer shoved the complainant with baton; *and* 2) Unprofessional conduct - officer refused to give the complainant his/her name and badge number as requested, told the complainant she was "drunk," and started laughing at the complainant

OPS Preliminary Findings: "Exonerated" as to the use of force allegation and "Unfounded" as to the unprofessional conduct allegation.

CPRB Findings: "Exonerated" as to the use of force allegation and "Unfounded" as to the unprofessional conduct allegation.

Final Determination: "Exonerated" as to the use of force allegation and "Unfounded" as to the unprofessional conduct allegation.

Complaint No. 34-01 [monitor appointed]

Nature of Allegation(s): 1) Unlawful entry into a private residence; *and* 2) Excessive use of force - officer pushed the complainant down the stairs

OPS Preliminary Findings: "Exonerated" as to the unlawful entry into a private residence allegation and "Unfounded" as to the excessive use of force allegation.

CPRB Findings: "Exonerated" as to the unlawful entry into a private residence allegation and "Unfounded" as to the excessive use of force allegation.

CPRB Action: At its February 11, 2002 meeting, the Board recommended that mediation take place between the officer and the complainant.

Final Determination: "Exonerated" as to the unlawful entry into a private residence allegation and "Unfounded" as to the excessive use of force allegation.

Complaint No. 35-01

Nature of Allegation(s): Rudeness/Unprofessional conduct - the complainant was unlawfully detained, threatened with arrest and called derogatory names; the officer(s) refused to give the complainant their names and badge numbers; the officer(s) threw the complainant's license and registration at the complainant and used profane language

OPS Preliminary Finding: "Not Sustained"

CPRB Finding: "Not Sustained"

Complaint No. 36-01 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - officer pushed the complainant against a wall, grabbed the complainant by the throat and pushed the complainant's head against the wall; *and* 2) Use of derogatory language to refer to the complainant

OPS Preliminary Findings: "Unfounded" as to the excessive force allegation and "Not Sustained" as to the use of derogatory language allegation.

CPRB Findings: "Unfounded" as to the excessive force allegation and "Not Sustained" as to the use of derogatory language allegation.

Final Determination: "Unfounded" as to the excessive force allegation and "Not Sustained" as to the use of derogatory language allegation.

Complaint No. 38-01

Nature of Allegation(s): Excessive use of force - police officer(s) "dragged" the complainant out of the Emergency Room at Albany Medical Center causing bruising to the complainant's body

OPS Preliminary Finding: "Unfounded"

CPRB Finding: "Unfounded"

Complaint No. 39-01

Nature of Allegation(s): The complainant was strip searched in the hallway of Booking in view of a camera

OPS Preliminary Finding: "Exonerated"

CPRB Finding: "Exonerated"

CPRB Action: At its February 11, 2002 meeting, the Board recommended that a firm policy be implemented identifying a specific location to be used for strip searches and requested that the Board be informed of such policy and notified of when it takes effect.

Final Determination: "Exonerated"

Complaint No. 40-01 [monitor appointed]

Nature of Allegation(s): 1) Unnecessary use of force - handcuffs too tight; *and* 2) Unlawful detention and search of the complainant's minor son

OPS Action: Recommended that mediation take place between the parties. The complainant agreed to mediation on January 28, 2002, and the officer agreed to mediation on February 7, 2002.

CPRB Finding: "Mediated"- the complainant and officer participated in the mediation on February 26, 2002 and signed a mediation agreement on February 27, 2002.

Complaint No. 42-01

Nature of Allegation(s): Officer failed to return the complainant's Maryland Driver's License

OPS Preliminary Finding: "Not Sustained"

CPRB Finding: "Not Sustained"

Final Determination: "Not Sustained"

Complaint No. 43-01 [monitor appointed]

Nature of Allegation(s): 1) Harassment; *and* 2) Use of abusive/derogatory language to refer to the complainant

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

CPRB Action: At the Board's February 11, 2002 meeting, four (4) members of the Board voted to accept the preliminary findings of OPS and make a finding of "Unfounded," two (2) members voted against accepting the finding, and two (2) members abstained from voting. However, the vote was insufficient to take action under §42-337 of the law. At its April 8, 2002, the Board tabled a second vote on the complaint to allow time for the newest member of the Board to review the complaint file.

Complaint No. 1-02 [monitor appointed]

Nature of Allegation(s): 1) Improper conduct by an off-duty police officer - officer stuck a badge in the complainant's face and demanded the complainant to move the complainant's vehicle, wrote something on a piece of paper and stated that the officer would "get" the complainant; *and* 2) Unlawful conduct by an off-duty officer - officer involved in breaking the window of the complainant's store

OPS Preliminary Findings: "Not Sustained" as to the improper conduct allegation.

CPRB Action: Review tabled at the Board's March 11, 2002 and April 8, 2002 meetings due to the absence of the Board member presenting the complaint and the absence of the Board monitor assigned to the complaint.

Complaint No. 2-02 [monitor appointed]

Nature of Allegation(s): 1) Excessive use of force - officers grabbed and twisted the complainant's wrist, flung the complainant to the floor, twisted the complainant's arms and legs and forced the complainant's face to the mat; 2) Denied requested medical attention; *and* 3) Use of derogatory language to refer to the complainant

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

CPRB Findings: "Exonerated" as to all allegations.

Final Determination: "Exonerated" as to all allegations.

GOVERNMENT LAW CENTER

During the second 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:

- Attended a two-day training program (February 13-14, 2002) on Early Warning Systems conducted by the Tampa Bay Police Department's Internal Affairs. The training included a presentation by Dr. Kevin Gilmartin, national trainer and police psychologist, entitled "Emotional Survival of Law Enforcement."
- Updated the Board's orientation training program and materials, coordinated and conducted orientation training of the Board's newest member, Barbara Gaige, on March 8-11, 2002.
- Provided staff support during liaison meetings with the Mayor, the Commissioner, and OPS.
- Notified the Board of the resignation of Bruce A. Androphy, Esq., whose resignation was prompted by a promotion and increased employment responsibilities.
- 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.
- 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 second 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;
 - ▶ 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;
- ▶ created and compiled training 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 second quarter, which included making a transition with the resignation of Dr. Morris Eson and the appointment of new member Barbara Gaige; reviewing nearly half of its 39 active complaints; participating in two community outreach/education meetings with the One Hundred Black Men of the Capital Region and the Public Safety Committee of the Common Council, meeting with the Mayor, the Police Commissioner and Commander Paula Breen from the Office of Professional Standards; 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: June 10, 2002