



# City of Albany Community Police Review Board

*2020 First Quarter Report*

*November 1, 2019 – January 31, 2020*

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 Community Police Review Board (CPRB), quarterly reports containing summaries of complaints, including final determinations of the Police Department.

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, including administering the Board and filing these reports.

## **Board Membership**

The following members constituted the Board during the first quarter of 2020: Ivy Morris, *Chair*; Warren E. Hamilton, *Vice Chair*; Veneilya A. Harden, *Secretary*; Larry Becker; Reverend Dr. Victor Collier; Zach Garafalo; and Matthew Ingram.

## **Complaint Review**

Under Section II, Subsection I of the Board's Operating Procedures, each of the eight 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. The December meeting was cancelled. Altogether, four complaints containing six allegations were presented for review in the first quarter of 2019.

## **Complaint Summaries**

The Board received seven new complaints during the third quarter. There are 31 active complaints and four suspended complaints. Of the 31 complaints before the Board, the Board received OPS reports on 3. 2 of those complaints were presented for review and one (CPRB #01-2019) was held over and was reviewed in the second quarter.

### **CPRB # 04-2018**

**OPS Synopsis of Allegation:** The complainant alleged officers accused her of making a false report of a Robbery and took advantage of her known disabilities.

**OPS Findings: 1. Exonerated** where the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. The

complainant alleged an officer told her if she called the police with a false report again she would be arrested. The complainant called the police and stated there was a Robbery and hung up the phone. Upon arrival officers found the complainant standing out front and several people moving items from a house. It appears that two officers already knew of a court action and reminded the complainant of that. She refused to acknowledge the court action stating this was an illegal eviction. The complainant did not appear to have the willingness to fully understand what happened in court regarding her residence.

**Conduct Standards – Not Sustained**, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged officer took advantage of her known disabilities. The officers stated they did not know of any disabilities the complainant had. The complainant refused to speak about her disabilities and stated I have told the officers in the past about it.

CRPB referred back to OPS for review.

CPRB would like to know:

(1) At the time of the incident, what was the basis of the officers' belief that this was a legitimate eviction? Did the officers have access to or did they review eviction papers, such as a warrant of eviction or court order? Did OPS do so and retain copies of what they found for the complainant's file? As to the complainant's claim that she owned the home in question, did the officers or OPS investigate that claim by checking with the County Clerk's records as to real property ownership and retain copies of what they found for the complainant's file?

(2) At what point did the officers become aware of or come to the belief that the complainant was a mentally disabled person? And what brought this awareness to the fore.

(3) In threatening the complaint with arrest if she called in a similar complaint, were they taking into account, that the complainant was mentally disabled?

#### **CPRB # 11-18**

**OPS Synopsis of Allegation:** The complainant alleged an officer is harassing the complainant because he had posted a video of the officer while he was off duty.

**OPS Findings: Conduct Standards – Unfounded** - where the review shows that the act or acts complained did not occur or were misconstrued. The officer's first direct interaction with the complainant occurred on July 9<sup>th</sup> 2018 at approximately 17:25 Hrs. while in the area of 7 Teunis Street. The

complainant was detained for smoking a marijuana cigarette in a public space. The officer stated that he (after recognizing the complainant) told the complainant he felt the posting of the video labeled “Fuck 12” was disrespectful. The officer denied that he was attempting to intimidate or threaten the complainant. Despite having probable cause to arrest the complainant for the Criminal possession of marihuana in the fifth degree, he was released. The officer and complainant had no contact until September 7<sup>th</sup> 2018 (61 Days later). On that date the complainant was stopped for an equipment violation in the area of South Hawk Street and Third Avenue. The officer stated that prior to approaching the driver side door he was not aware that the complainant was the operator. The Trooper indicated that he was partnered up with the officer on the date of incident and states that the officer made no indication that he knew who was operating the vehicle prior to the stop. The Trooper stated that he does not recall the original reason for the stop but does remember that once at the vehicle he observed an overwhelming odor of marijuana emanating from the interior of the car. The Trooper and officer never said anything that would indicate that he was targeting the complainant for any reason whatsoever nor did the officer act in any harassing way towards the complainant. The Trooper stated he and the officer had made several other traffic stops prior to stopping the complainant.

The officer had two (2) interactions with the complainant in 61 days. During both encounters the complainant exhibited behavior that provided the officer sufficient probable cause to effect an arrest. The officer chose to exercise his discretion on the July 9<sup>th</sup> incident and the complainant was not taken into custody. On September 7<sup>th</sup> the complainant was arrested after being found with more than 37 grams of marijuana in his vehicle. Both of the aforementioned encounters were the result of the complainant openly committing unlawful acts (Smoking marijuana in a public space 18-307081; Vehicle equipment violation/Criminal Possession of Marijuana 18-380653) and not the result of some overt retributory actions of an officer.

### **CPRB 01-2019**

**OPS Synopsis of Allegation** The Complainant alleged an officer has not fulfilled his job by not listening to them about their ongoing neighbor problems. The complainant alleges the officer keeps telling her that her problems are civil and not criminal in nature and that he “threatened” to arrest her husband for Harassment, Trespass, and Mental Hygiene Law 9.41.

Zach Garafalo, CPRB Board member was reviewing the case, when the complainant notified him (Zach Garafalo) that there was additional video footage of incidents. Zach indicated that he wanted to review the additional video footage and would finish reviewing the case upon completion of viewing.

## **Meetings**

The Board met 3 times to conduct business in the First Quarter. Community Review Board Meetings were held at the Albany Community Development Agency, 200 Henry Johnson Blvd, Community Room, 2<sup>nd</sup> Floor, Albany, NY. Meetings were held on November 14<sup>th</sup>, December 12<sup>th</sup>, 2019 and January 9<sup>th</sup>, 2020. In an attempt to raise awareness and participation by/in the community, the CPRB is partnering with local organizations and neighborhood associations to conduct meetings and outreach. The Board meets on the second Thursday of every month, to encourage media and public participation at its meetings.

## **Public Comment**

Dr. Alice P. Green, Executive Director, Center for Law and Justice gave a presentation to the CPRB on the Center's report on ***Pathway to Reformative Change: Public Safety, Law Enforcement, and the Albany Community***.

Jellisa Joseph, a Mayoral appointee to the Board, discussed her resignation from the Board.

## **Report from the Office of Professional Standards**

Commander Battuello reported that their (APD) hiring goals have been made and they have also secured a new training facility. OPS also has hired a new investigative officer.

## **Education and Community Outreach**

Zach Garafalo expressed that he would like to expand the CPRB footprint to include Faith based organization and the youth population.

**Task Force on Monitors** – Three new Monitor applications were received and interviews are to be scheduled.

## **Report from the Government Law Center**

Elections are on hold until we receive more clarity on appointments. Currently, the board has six unappointed positions. The website is close to completion and the GLC is working with a consultant on branding (logo) and marketing materials. The GLC has also proposed a standing meeting time for committees on Thursday's at 6:00pm.

## **Conclusion**

The Albany Community Police Review Board continues to work collaboratively with the Albany Police Department, The City of Albany, the community we serve.

Respectfully submitted,

Ava Ayers, Director  
Government Law Center of Albany Law School

Approved by and submitted on behalf of the  
City of Albany Citizens' Police Review Board

Approved by the CPRB: July 9, 2020

## **Appendix: Definitions**

### Definition of Terms

For purposes of this Report, the following words and phrases shall have the following meanings:

APD - City of Albany Police Department

COMPLAINT - A written statement concerning police conduct which is either submitted to the Community Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department

CPRB or BOARD - Community Police Review Board

GOVERNMENT LAW CENTER - The Government Law Center of Albany Law School

GRIEVANCE FORM - An APD form used to gather contact information from the complainant and forwarded to the Government Law Center for CPRB outreach purposes

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 (OPS) - Professional Standards Unit of the City of Albany Police Department

### Definition of CPRB Findings

Section 42-344A of Chapter 42, Part 33 of the Albany City Code charges the Board with making one of the following findings on each allegation by majority vote after review and deliberation on an investigation:

(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.