



City of Albany Community Police Review Board

2020 Second Quarter Report

February 1, 2020 – April 30, 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.

As of January 2020, there are two positions open.

Complaint Review

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 second quarter. There are currently 32 active complaints and four suspended complaints. Of the 32 complaints before the Board, 1 complaint was presented for review.

CPRB # 01-2019

Zach Garafalo reported on CPRB #01-2019/OPS CC2018-028. The complaint form was submitted to the Government Law Center on December 12, 2018, OPS received the complaint on December 12, 2019, and the investigating detective from OPS spoke to the complainant on January 7, 2019. Mediation was offered by OPS and declined by the complainant. OPS reported their investigation to the CPRB on July 30, 2019. Zach previously reported this to the CPRB on November 14, 2019, but the Board tabled it to review posed question from the complainant at that time. The following materials were available for review for these allegations: 1) summary of OPS interview with the target officer, 2) records for call for service, 3) email correspondence, including emails from the target officer to the complainant and complainant attorneys,

from corporation counsel to the complainant, and from the deputy chief of staff to the mayor to the complainant, and 4) security camera footage was available both from the neighbor's property and Home Depot as well as pictures. The investigatory materials did not include dash or body camera footage.

Zach summarized the case and explained the dispute had been a long-term one between the complainant and their neighbors. Both parties have placed calls over the years. On January 4, 2018, the complainant and her husband were victims of an assault. Additionally, the complainant felt her recounting of the incident wasn't believed. Female complainant feels physically violated. The interview with the target officer and OPS revealed that the target officer reviewed the surveillance video from the neighbor's surveillance system in June 2019, when the target officer was aware of the encounter. The target officer has been working with the complainant and their neighbors throughout the duration of this case. The target officer recounts the incident as follows: the male neighbor was shoveling his driveway when the complainant came down the driveway and there was some confrontation (some pushing occurred). The male neighbor then suddenly takes steps back and then leaves. The male complainant arrives with a machete.

A monitor was not appointed to investigate this complaint.

OPS: Call Handling (2cts) & Conduct Standards

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.

OPS Findings:

Call Handling – Unfounded, where the review shows that the act or acts complained of were misconstrued. The Complainant alleged an officer kept telling her that her problems are civil and not criminal in nature. Both the officer and Corporation Counsel agree that most of the problems between the complainants and their neighbors are civil matters. The one incident that was determined to be criminal in nature resulted in one of the complainants being arrested (video of him with a machete in his right hand is on file). Surveillance video also shows the actions of the complainant that could've involved additional criminal charges against him.

CPRB: Unfounded, where the review shows that the act or acts complained of did not occur or were misconstrued.

Call Handling – Unfounded, where the review shows that the act or acts complained of did not occur or were misconstrued. The complainants alleged an officer has not fulfilled his job as an officer by not listening to them about their ongoing neighbor problems. The officer stated he did listen to the complainants and their neighbors. The officer stated he did not express preferential treatment towards anyone, but acted impartial and responded to the facts presented to him. The officer stated he remained professional while dealing with all parties involved.

CPRB Findings: Unfounded, where the review shows that the act or acts complained of did not occur or were misconstrued.

Conduct Standards - Not Sustained, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged an officer “threatened” to arrest her husband for Harassment, Trespass, and Mental Hygiene Law 9.41. The officer stated he never “threatened” to arrest the complainant’s husband for Mental Health Law 9.41. The officer stated his observations of the complainants, specifically the husband, is that they are somewhat anti-social and somewhat bizarre in their manners (possible mental health issues as the husband admitted to the officer that he does seek professional help through a psychiatrist). The officer stated he remained professional while dealing with all parties involved.

CPRB Findings: Not Sustained, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

Meetings

The Board met twice to conduct business in the First Quarter. The February Community Review Board Meeting was held at the Albany Community Development Agency, 200 Henry Johnson Blvd., Community Room, 2nd Floor, Albany, NY. Due to COVID-19, the April 9th Meeting was held virtually through Zoom. The Board did not meet in March. The Board meets on the second Thursday of every month, to encourage media and public participation at its meetings.

Public Comment: No public comment was made.

Report from the Office of Professional Standards

At the February meeting, Commander Battuello informed the CPRB that the OPS would be hiring a new detective by the end of this month. Zach questioned if the new detective would be permanently assigned? The Lieutenant informed the Board that they would be hired for our (OPS) office. Albany Police Department is hiring more police officers by summer; no exact

number of how many yet. Veneilya brought up concern of OPS backlog on cases and how it affects the Board's process in viewing cases; Lieutenant mentions: with the new legislation implementation of discovery and bail reform, OPS has been extremely busy.

Commander Battuello informed the Board that two new detectives have been hired, and they started a little over a month ago: Detective Keith Johnson and Detective William Pierce. Once the COVID restrictions lift, he hopes to have an in-person meeting to give the community an opportunity to meet the new detectives.

Committee Reports

By-Laws and Rules Committee. Matt Ingraham reported that the Committee met with GLC staff two weeks ago to discuss issue identification: how are issues classified on complaints?

Education and Community Outreach

Task Force on Monitors. Committee members Larry Becker, Warren Hamilton, Ivy Morris, and Veneilya Harden met and interviewed three applicants. All three were hired and the GLC is working out arrangements for training.

Report from the Government Law Center

The New website is live: www.albanycprb.org! New marketing materials featuring the new CPRB logo were ordered and arrived during this quarter. This included pens, banner, table runner, and business cards. Matt Ingraham asked if the CPRB complaint forms can be submitted online. Ava replied, saying confidentiality becomes an issue; a fillable PDF file will be uploaded instead. A complaint status report will be included in the meetings packets moving forward. Terms were clarified: terms are for 6 years, no matter how many reappointments you have within those 6 years. Most members are eligible for reappointment.

Conclusion

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

Respectfully submitted,

Ava Ayers, Director
Government Law Center at Albany Law School

Approved by and submitted on behalf of the
City of Albany Community 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.