



City of Albany
Community Police Review Board

2020 4th Quarter Report

August 1, 2020 – October 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

This report covers operations of the Albany Community Police Review Board from August 1, 2020 to October 31, 2020.

The Board is an independent body established by the City of Albany in 2000 to improve communication between the police department and the community, to increase police accountability and credibility with the public, and to create a complaint review process that is free from bias and informed of actual police practice.

In addition to its authority to review and comment on completed investigations of complaints made by community members against officers of the City of Albany Police Department for alleged misconduct, the nine-member Board may make recommendations to the Common Council and the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers. Board members are appointed by the Mayor and the Common Council. In a unique arrangement, the Government Law Center at Albany Law School provides substantial support services to assist the Board in its duties and responsibilities.

The legislation that creates and governs the Board is part 33 of Chapter 42 of the Code of the City of Albany, which can be found online here: ecode360.com/7680044. More information on the Board can be found on its website, albanycprb.org.

Board Membership

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

As of January, 2020, there is 1 position open for a mayoral appointment.

Complaint Review

Pursuant to the Community Police Review Board Reference Manual, each board member shall be entitled to view the entire preliminary report of the Chief of Police on each complaint and the report prepared by any individual appointed by the Board as observer, monitor or investigator, as well as to question a representative of the Professional Standards Unit having principal responsibility for the preparation of the preliminary report and also the individual appointed by the Board as an observer, monitor or investigator and to ask for fuller description of the matter

contained in the preliminary report and shall be entitled to ask such other questions as may enable them to vote on a fully informed basis regarding the findings to be determined with respect to a case.

The Board reviewed and made findings on 5 complaints in the fourth quarter of 2020. 1 complaint is still under review by the board.

The Board did not return any cases to OPS for further investigation during this quarter.

Complaint Summaries

The Board received 6 new complaints during the fourth quarter. There are 34 active complaints and 3 suspended complaints. “Active” means the complaints have not been returned to the Board from OPS for review or are still under review by the Board.

CPRB Case No.	Case Synopsis	OPS Finding	CPRB Finding
1. 06-2019	Complainant reports two alleged incidents involving officers tripping her causing her to hit the ground, one officer stepped on her shin, and another stomped on her hand while on the ground resulting in two chipped teeth and a busted lip. Allegation(s): 1. Use of Force 2. Use of Force	1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. 2. Unfounded - where the review shows that the act or acts complained did not occur.	1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. 2. Not sustained - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
3. 23-2017	The complainant alleged an officer lied about seeing injuries to a victim and observing the complainant damaging property. Allegation(s): 1. Conduct Standard	1. Unfounded - where the review shows that the act or acts complained did not occur.	1. Unfounded - where the review shows that the act or acts complained did not occur.

<p>4. 10-2018</p>	<p>The complainant reports he was walking down First St. and was stopped by the police. He states he was charged with trespassing with two others (whom he does not know) and possession of marijuana. Complainant alleges that his car was illegally searched and towed.</p> <p>Allegation(s)</p> <ol style="list-style-type: none"> 1. Arrest Authority & Procedure 2. Call Handling 	<ol style="list-style-type: none"> 1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. 2. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. 	<p><i>Under review</i></p>
<p>5. 27-2017</p>	<p>The complainant reports an officer lied about seeing injuries to a victim and observed the complainant damaging property.</p> <ol style="list-style-type: none"> 1. Conduct Standards 	<ol style="list-style-type: none"> 1. Unfounded - where the review shows that the act or acts complained did not occur. 	<ol style="list-style-type: none"> 1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.
<p>6. 03-2019</p>	<p>The complainant alleges that an officer was demeaning, rude, and unprofessional on the scene of an auto accident.</p> <ol style="list-style-type: none"> 1. Conduct Standards 	<ol style="list-style-type: none"> 1. Unfounded - where the review shows that the act or acts complained did not occur. 	<ol style="list-style-type: none"> 1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.
<p>7. 17-2019</p>	<p>The complainant reports he was arrested without probable cause and that</p>	<ol style="list-style-type: none"> 1. Unfounded - where the review shows that the act or 	<ol style="list-style-type: none"> 1. Unfounded - where the review shows that the act or acts

	<p>the officer took his money.</p> <ol style="list-style-type: none"> 1. Arrest Authority and Procedure 2. Property Handling 	<p>acts complained did not occur.</p> <ol style="list-style-type: none"> 2. Unfounded - where the review shows that the act or acts complained did not occur. 	<p>complained did not occur.</p> <ol style="list-style-type: none"> 2. Unfounded - where the review shows that the act or acts
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The summaries provided are separate findings by the Office of Professional Standards and the Community Police Review Board following review and investigation of reported complaints. **CPRB # 06-2019**

OPS Findings: On the first allegation, which OPS classified as “Use of Force,” OPS’s finding was “Exonerated,” meaning that the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. OPS stated as follows:

The complainant alleges APD Officers tripped her causing her to “crash” to the floor resulting in the CO [complainant] suffering from two chipped front teeth and a busted lip. Based on body-worn camera footage, a Use of Force Report, and statements, an Officer did leg sweep the CO causing her to fall to the ground, causing said injuries. BWC footage along with Officer and witness statements indicate the CO had more than ample time and opportunity to leave the bus station, a private company. Furthermore, the Officers gave the CO twenty two (22) lawful orders to remove herself from the premises prior to her being placed into custody. The Officers displayed an excessive amount of patience and restraint prior to being forced to act against the CO.

CPRB Finding/Action/Discussion: The Board initially voted (4 in favor, 3 against) for a finding of “**Exonerated**” on this allegation. M. Ingram moved to reconsider the vote and to get more information because he realized that he can get the disciplinary history of the officers involved because of the repeal of NYS Civil Rights Law 50(a). This motion passed. The vote and further discussion were moved to the next board meeting. The complaint was reviewed at the October board meeting where the board voted unanimously in favor of “**Not sustained**”.

CPRB # 23-2017

OPS categorized this allegation as “Conduct Standards,” and made a finding of “Unfounded” (meaning that “the review shows that the act or acts complained did not occur or were misconstrued”). OPS stated as follows:

The complainant was arrested and charged with Criminal Contempt and Criminal Mischief neither of which is pertaining to an assault or injuries, so if an officer observed injuries to the victim has no bearing on the arrest. The officer stated he never said he saw the complainant damaging property nor is there any information indicating that occurred.

CPRB Finding/Action/Discussion: The complaint was reviewed at the August board meeting where the board voted unanimously in favor of “**Unfounded**” finding.

CPRB # 10-2018

OPS Findings: OPS categorized the first allegation as “Arrest Authority & Procedure,” and made a finding of “Exonerated,” meaning that “the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper”. OPS explained its findings as follows:

The complainant alleges he was just walking by 510 Frist St. and charged with marijuana possession and trespass. He claims to not know the co-defendants. Based on Officer interviews and IDC's, there was probable cause to stop the CO and his co-defendants. The CO also has a history of being stopped at the same location with the same people for the same thing (possession of marijuana) and said location has had numerous documented citizen complaints of illegal activity.

OPS categorized the second allegation as “Call Handling,” and made a finding of “Exonerated,” where the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. OPS explained its findings as follows:

The complainant alleges his vehicle was illegally searched (resulting in the found marijuana) and towed. Officer interviews and IDC's (all of which is consistent with BWC footage), the CO's vehicle was parked more than 12 inches from the curb (as briefly seen on BWC) and therefore ticketed and towed. Said vehicle was searched incident to arrest/towing which is when said marijuana was discovered.

CPRB Finding/Action/Discussion: Ivy Morris, Chair, CPRB was assigned to review the case. There was a lot of body camera footage to go through of the incident. What she saw gave her great concern. Ms. Morris asked that Larry Becker and Nairobi Vives also help with the review. This case is still under review.

CPRB # 27-2017

OPS Findings: OPS categorized this allegation as “**Conduct Standards,**” and made a finding of “**Unfounded,**” where the review shows that the act or acts complained did not occur or were misconstrued. OPS explained its findings as follows:

The complainant was arrested and charged with Criminal Contempt and Criminal Mischief neither of which is pertaining to an assault or injuries, so if an officer observed injuries to the victim has no bearing on the arrest. The officer stated he never said he saw the complainant damaging property nor is there any information indicating that occurred.

CPRB Finding/Action/Discussion: N. Vives asked about the order of events. Z. Garafalo clarified the complainant was subdued by DSS security, not APD officers. The surveillance footage was obtained by OPS, which showed the complainant escalating the situation. Complainant had complained of a broken arm, but at the hospital he was told to take Aleve. No monitor was assigned to this case. The board voted in favor of “**Exonerated**” finding.

CPRB # 03-2019

OPS Findings: OPS categorized this allegation as “**Conduct Standards,**” and made a finding of “**Unfounded,**” where the review shows that the act or acts complained did not occur or were misconstrued. OPS explained its findings as follows:

The complainant states that the officers were unprofessional and rude. The undersigned was unable to personally talk with the complainant as she never returned any phone calls. The undersigned watched three different body worn camera videos and at no time was any officer unprofessional or rude. The Officers did tell the complainant that if she didn't tell the truth they would tow her vehicle as it was involved in a hit and run. The officers acted professional at all times even when she was told something that was unpleasant for her to hear. The officers that were **IDC'd** also stated that at no time did they or anyone else act unprofessional, rude, or threatening.

CPRB Finding/Action/Discussion: N. Vives asked about the order of events. Z. Garafalo clarified the complainant was subdued by DSS security, not APD officers. The surveillance footage was obtained by OPS, which showed the complainant escalating the situation. Complainant had complained of a broken arm, but at the hospital he was told to take Aleve. No monitor was assigned to this case. The board voted in favor of **Exonerated** finding.

CPRB # 17-2019

OPS Findings: OPS categorized the first allegation as “**Arrest Authority & Procedure,**” and made a finding of “**Unfounded,**” where the review shows that

the act or acts complained did not occur. The complainant alleged on 9/27/18 he was arrested without probable cause. OPS explained its findings as follows:

Two calls to APD were made by citizens complaining about drug dealing; one of the descriptions provided by a female caller matched the complainant and he was located in the area of the call. The officer did not randomly stop the complainant; he was acting within his authority based on the information provided to him on a call for service that he was dispatched to. The complainant is a known criminal offender in the City of Albany, especially for drug related offenses. The officer recognized the complainant from past encounters and knew his history. The complainant accepted a plea deal for this incident. Had probable cause been in question, a “Probable Cause Hearing” would have occurred during the court process (a preliminary hearing that happens after the filing of charges, at which the court hears testimony in order to determine whether it's more likely than not that the defendant committed the alleged crimes. If the court finds “probable cause,” then the case may proceed to trial). The complainant accepted a plea deal 22 days after his arrest.

OPS categorized the second allegation as **“Property Handling,” and made a finding of “Unfounded,”** where the review shows that the act or acts complained did not occur. OPS explained its findings as follows:

The complainant alleged on 9/27/18 during his arrest Albany Police Department took his money. Based on a conversation with the complainant’s attorney and documentation from Albany City Court the money (\$267.00 USC) was forfeited.

CPRB Finding/Action/Discussion: M. Ingram asked why W. Hamilton didn’t find it necessary to view the video; W. Hamilton noted that the case file and accompanying documents clearly refute large parts of the complaint. M. Ingram suggested that as a matter of course, the CPRB review all video related to any complaint.

L. Becker noted that prior arrest is not grounds for new arrest. W. Hamilton clarified that supporting documents showed drugs were found on complainant’s person by officers after their initial approach.

After N. Vives asked about the facts, Cmdr. Battuello clarified that complainant was compliant with officers and immediately admitted to possessing crack cocaine and a pipe. Also, the caller described the complainant.

There was an extended discussion about the inclusion of the judicial outcome of the interaction between the complainant and the officers. Many board members highlighted that just because someone accepts a plea deal, that has nothing to do with the legality of the interaction at the time it occurred.

Cmdr. Battuello's understanding was that it was judicially reviewed "with attorneys and a judge," so in his opinion whether or not someone accepts a plea deal is irrelevant in their guilt and therefore usable. He does not believe officer disciplinary records should be used in officer misconduct investigations. He noted that the OPS investigation was finished in November of 2018. The board voted in favor of "**Unfounded**" findings for both allegations.

Meetings

The Board met 3 times to conduct business in the Fourth Quarter and the Bylaws and Rules Committee met once to discuss policy recommendations at this time. Due to the on-going COVID-19 pandemic Community Review Board Meetings were held over Zoom. Meetings were held on August, September and October. The Board meets on the second Thursday of every month, to encourage media and public participation at its meetings.

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 of Albany Law School

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

Approved by the CPRB: (Insert date)

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 Unity of the City of Albany Police Department

Definition of CPRB Findings

Section of 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] do not occur or were misconstrued.

(5) *Ineffective Policy or Training* – where the matter does not 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.