



City of Albany  
Community Police Review Board  
2020 Annual Report

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

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

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## **BACKGROUND**

The Albany Community Police Review Board (CPRB) is an independent body established by the City of Albany in 2000 to improve interactions between the police department and the community, to increase police accountability, transparency and credibility with the general public, and to create a complaint review process that is free from bias and informed of actual police practices.

In addition to its authority to review and comment on completed investigations of complaints made by community members against law enforcement 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 day to day 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](http://ecode360.com/7680044). More information on the Board can be found on its website, [albanycprb.org](http://albanycprb.org).

This is the Board's twentieth annual report.<sup>1</sup> It covers the Board's operations from November 1, 2019, to October 31, 2020.

### ***Procedures/Complaint Review Process***

When a complaint is filed, the Albany Police Department's Office of Professional Standards (OPS) investigates it, and then submits a "preliminary" report of its findings to the Board. (See § 42-343(E)). The Community Police Review Board then reviews the case.

Board members are entitled to view the entire preliminary report on each complaint, as well as a report prepared by an individual appointed by the Board as an observer, monitor or investigator. Board members may also question a representative of the Professional Standards Unit who has primary responsibility for preparing the preliminary report, such as a Detective, and also the individual appointed by the Board as an observer, monitor or investigator. The Board can also ask for fuller description of the matter contained in the preliminary report. The Board is entitled to ask questions that may allow them to vote on a fully informed decision regarding the findings reported by OPS.

While Board members undertake their own individual review of complaints, more often than not, it is the report of the monitor which will serve as the most complete professional guide to the full Board as it reviews the quality of the OPS investigation. Monitors are qualified

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<sup>1</sup> Albany Code § 42-340 requires that the Government Law Center, on behalf of the Board, "file annual reports with the Common Council and the Mayor, which contain statistics and summaries of citizen complaints, including a comparison of the Board's findings with the final determinations of the Police Department."

individuals possessing an expertise in ascertaining whether an investigation by the OPS is, in fact, thorough, complete, and fair. Monitors possess an investigative background and are appointed by the Board to objectively investigate a complaint that involves allegations of excess use of force and/or a violation of the complainant's civil rights. The panel's determination to appoint a monitor is based solely upon a reading of the text of the complaint "as filed" and does not indicate any pre-finding by the panel. It is only based on a reading of the complaint, submitted as is, by the complainant. The determination by the Board panel to appoint a monitor indicates the objective of the Board to ensure the broadest degree of scrutiny of a complaint and should not be construed as a prior judgment by the Board of the merits of the complaint. The monitor shall similarly make no prior judgment regarding the merit or lack of merit of a civilian complaint based upon panel appointment of a monitor.

As part of the Board's process, it reviews the complaint, the OPS's preliminary report, the report of a monitor if one has been assigned, transcripts, and information in the Board's complaint file and the OPS's investigative file. The Board also hears a presentation by a monitor (if one was assigned) and has the opportunity to question detectives from the OPS. The Board then makes findings on the complaint. The Chief of Police must then "review the Department's preliminary report in light of the [Board's] finding and. . . [m]ake the Department's final determination." (City Code § 42-345).

### **Board Members**

The Board is comprised of nine members, five members appointed by the Common Council, and four members appointed by the Mayor, who serve for three-year staggered terms. The following members constituted the Board during 2020:

**Ivy S. Morris**, *Chair*

First Appointed 04/06/2016

Mayoral Appointee

**Warren E. Hamilton**, *Vice Chair*

First Appointed 11/01/2017

Albany Common Council Appointee

**Veneilya Harden**, *Secretary*

First Appointed 10/20/2017

Albany Common Council Appointee

**Larry Becker**

First Appointed 03/27/2015

Mayoral Appointee

Albany Common Council Appointee

**Reverend Dr. Victor L. Collier**

First Appointed 03/22/2016

Mayoral Appointee

**Zachary J. Garafalo**, *Vice Chair*

First Appointed 06/6/2016

Albany Common Council Appointee

**Matt Ingram**

First Appointed 10/17/2017

Albany Common Council Appointee

The covid-19 pandemic presented significant challenges beginning in March, when all in-person activities were shut down. As a result, no Board Members attended the Citizens' Police Academy during this year.

## ACTIONS TAKEN BY THE BOARD

### *Number of Cases Received and Reviewed*

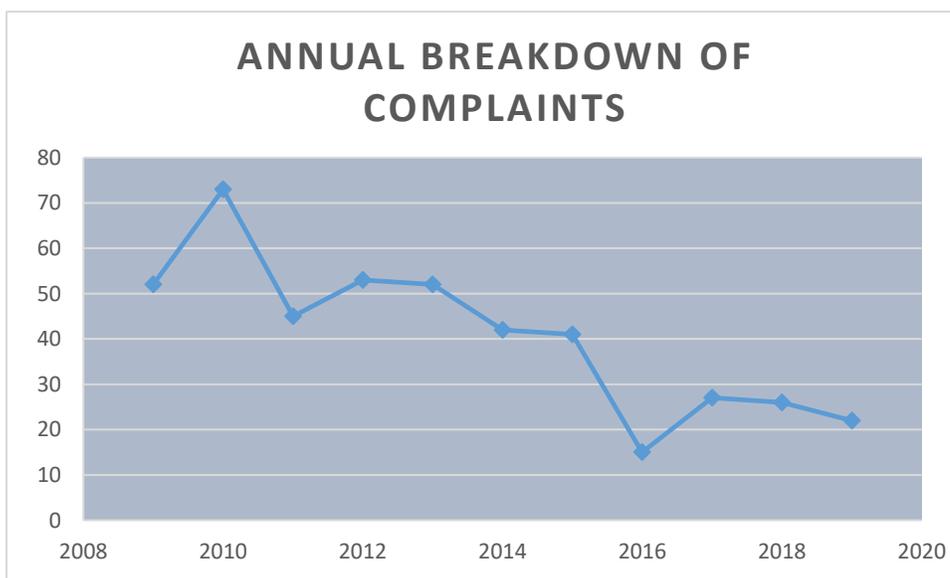
There were twenty-two active cases pending at the start of the period covered by this report. Between November 1, 2019, and October 31, 2020, the board received fourteen new complaints, a 17% decrease from complaints filed last year. Complaints received include those filed with the Board directly and those filed with the Board through the Office of Professional Standards (OPS).

There are thirty-four active complaints and two suspended complaints at the end of the period covered by this report. “Active” includes all complaints that are awaiting review, except those that are suspended because of pending litigation; in other words, “active” complaints are awaiting either an OPS investigation or review by the Board.

During this year, the Board reviewed twelve complaints, some of which were filed before November 1, 2019. Some complaints consist of several allegations made against officer(s). The findings reported below identify allegations included the complaints reviewed this year.

The complaints that were reviewed by the Board this year resulted in the following:

- 10 findings of Unfounded;
- 2 findings of Exonerated;
- 2 finding of Not Sustained;
- 2 of the complaints were referred back to OPS for further investigation;
- 1 vote deferred; and
- 3 suspended complaints.



In the last twelve years (between October 27, 2008, and October 31, 2020), the Board received a total of 526 complaints (see Figure 2). The Board received an average of 43 complaints per year. These complaints included those filed with the Board directly and those filed with the Board through the Office of Professional Standards (OPS).

*Figure 2: Yearly breakdown of the 526 complaints filed from October 27, 2008 to October 31, 2020*

## ***Findings***

Since the twelve complaints reviewed contained multiple allegations of misconduct, the number of findings made is not equal to the number of complaints in which findings were rendered.

## ***Suspension of Review***

The Common Council or the Mayor may suspend any case where there is a criminal investigation or a civil lawsuit.

The Board had two suspended complaints, which were carried over from the previous year of operation (November 1, 2017 - October 31, 2019). These suspensions remained in place throughout the year, so the Board ended the year of operation with two suspended complaints.

## ***Appointment of Monitors***

Under § 42-343(B)(1) of the legislation, the Board is required to appoint an individual to observe and monitor the Office of Professional Standards' investigation of a complaint "in the event the complaint alleges use of force or a violation of civil rights." Of the 22 complaints filed, the Board appointed a monitor to observe OPS investigations of 6 complaints.

## ***Further Investigation/Board Action***

Under § 42-343(F)(2) of the City Code, the Board may, after its "review and deliberation of the preliminary report of the Department's finding . . . request that Professional Standards conduct further investigation of the complaint."

Of the twelve complaints reviewed, the Board sent back two complaints following review back to the Office of Professional Standards for further investigation.

## ***Mediation***

After a complaint is filed, § 42-346(C) of the legislation provides that "the complainant or officer may at any time in the review process utilize the [Board's] mediation process . . . to resolve the complaint. Additionally, the Board is authorized under § 32-343(F)(4) to refer the complaint to mediation following its review and deliberation of the Department's preliminary report of its findings.

The Board did not forward any complaints to mediation this fiscal year.

## DATA ON COMPLAINANTS, OFFICERS, AND ALLEGATIONS

### Race and Gender of Complainants

The purpose of gathering demographic information about complainants is to identify trends or disparities relating to individual's encounters with law enforcement in the City of Albany. Providing this information is voluntary and not a requirement of filing a civilian complaint.

Figures 2 and 3: Race and Gender of the Complainants

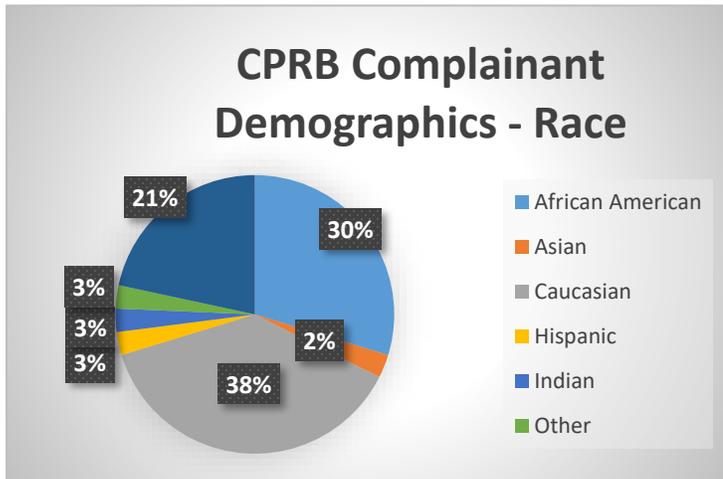


Figure 2

Complainants who file a complaint form with the Board may, at their option, include information relating to their race/ethnicity and/or gender. Of the fourteen new complaints filed in 2020, reported identities were comprised of: 30% African-Americans; 38% Caucasians; 21% unidentified; 3% Hispanic; 3% Indian; and 3% other race. Among those complaints 37% of complainants identified as female; 49% identified as male; and 13% did not disclose a gender identity. (See Figures 2 and 3.)

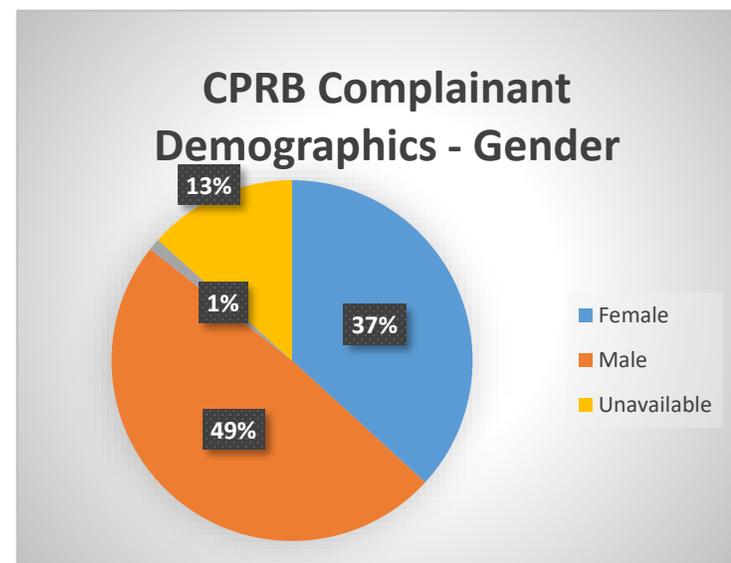


Figure 3

Of the fourteen complaints filed with the Board in 2020, all complainants chose to submit information regarding their race/ethnicity or gender identity. Two individuals failed to disclose their race/ethnicity.

### Race/Ethnicity and Gender of Officers

In addition to the optional section provided for complainants, the complaint form provides a section for the complainant to enter descriptive information about the officer(s) who are the subject of the complaint. In this section, the complainant is asked to provide race/ethnicity

and gender information about the officer(s). Out of fourteen complaints, five complaints indicated the officer was male, six complaints provided the ethnicity of the officer, three complaints indicated that the officer was white and one complaint redacted officer demographic information.

**Allegations Contained in the Complaints**

This section discusses the allegations contained in the fourteen complaints filed from November 2019 to October 2020. The categorization is based on initial review of the complaint filed with the Board and has not been categorized by the OPS. The categories designated are based on the information reported in the civilian complaint. OPS and the Board do not categorize the allegations in complaints until they review them. Each of the twelve complaints that we filed with the Board between November 2019 and October 2020 contained multiple allegations.

In identifying these categories and subcategories of allegations, the Board accounted for the complaint’s own classification of the allegations contained in those complaints.

<b>Arrest Authority and Procedures</b>	<b>2</b>
Arrest Authority & Procedure	2
False/Illegal/Improper/Unlawful Arrest	
Abuse of Authority- Intimidating Behavior	
Threatened Arrest	
<b>Call Handling</b>	<b>5</b>
Call Handling	4
Failure to Complete Report/Investigate Properly/Handle Report	1
Failure/Refusal to Provide Information/Assistance	
Illegal/Improper/Unlawful Stop/Detention/Questioning/Search/Harassment	
Illegal/Improper/Unlawful Search	
<b>Evidence &amp; Property Handling</b>	<b>2</b>
Evidence and Property Handling	2
<b>Unprofessional Conduct Standards</b>	<b>5</b>
Derogatory/Inappropriate/Profane/Offensive/Vulgar/Threatening/Racially-Biased/Unnecessary Language	

Racial Bias	
Unprofessional Conduct (rudeness)	5
<b>Use of Force</b>	<b>3</b>
Excessive Use of Force	3
Improper Use of Force	
Unnecessary Use of Force	
Use of Force	

Figure 4: Allegations Contained in the Complaints Filed from November 1, 2019, to October 31, 2020.

### GRIEVANCE FORMS

The Board received no new grievance forms from OPS in the 2020 reporting year.

### REPORTS

Four quarterly reports and one annual report were submitted to the Board for approval. Each report detailed the activities of the Board and the Government Law Center during each time period covered. A copy of each of these reports was submitted and filed with the Mayor, the Common Council, and the Chief of Police as required by § 42-340(c) of the City Code. Additional copies were forwarded to members of the public, community groups and organizations, and other interested parties on the Board’s mailing list. These reports were also posted on the Board’s website.

### MEETINGS OF THE BOARD

The Board held a total of sixteen meetings throughout the period covered by this report. Ten of those meetings were monthly public Board meetings. Meetings were devoted primarily to the review of complaints and a discussion of committee activities. Due to conflicting schedules, the Board did not meet during the months of March and May. There was a public comment period held at each of the monthly meetings.

Due to the ongoing discussions and review of policy changes in the City of Albany the board held separate meetings to propose policy recommendations and review changes in legislation:

Meeting Date	Purpose
June 11, 2020	Proposals for policy reform/Police response to protests
June 18, 2020	Discussion of proposed policy recommendations
June 25, 2020	Recommendations for policy reform inviting public comment
July 7, 2020	Discussion of proposed policy recommendations

September 3, 2020	Discussion about procedure in the wake of the appeal of Civil Rights Law 50-a
October 1, 2020	Discussion about APD Racial Bias Audit
October 22, 2020	Discussion of proposed policy recommendations

## **POLICY REFORM RECOMMENDATIONS**

The Bylaws and Rules Committee of this Board met several times this year to discuss proposed policy recommendations to improve when reviewing the effectiveness of the Bylaws and Rules to advancing the efficient conduct of board business. This report includes mid-year recommendations presented for adoption by the Board at its January meeting.

The Bylaws and Rules Committee presented to the Board to decide, whether to adopt one or more of the following proposals:

### **A. Public Access to APD Policies**

- “All Albany Police Department policies and procedures, as well as any collective-bargaining agreements covering members of the Department, shall be made available to the public on the Department’s website within 14 days of their effective date and for as long as those policies, procedures, or agreements are effective. Specific provisions may be redacted if necessary to protect public safety. In the event a policy or procedure is redacted, APD shall forward notice to the Common Council explaining the need for the redaction within 14 days.”

### **B. Public Access to Disciplinary Information (Implementation of the Repeal of Civil Rights Law 50-A)**

- The Albany Police Department shall post online any information about disciplinary actions taken against individual officers that would be subject to disclosure under the Freedom of Information Law.
- Require APD to publish quarterly reports on disciplinary actions taken within the department – These reports should include both individualized information about specific cases and aggregate information.
- The CPRB should have the power to request a report from the Department on whether disciplinary action was taken in any specific case.
- Under no circumstances shall the Department ask any member of the public to pay for access to information that would be subject to disclosure under the Freedom of Information Law.

### **C. Public Access to Video Footage**

- "Upon request by any resident of New York State, the Department shall make any video footage pertaining to an incident public within 14 days, with only those redactions that are necessary." (This would presumably have to be harmonized with FOIL, and the limited circumstances identified in which withholding information would be appropriate.)
- "Under no circumstances shall a person be charged for access to video footage."

#### **D. Public Oversight of Surveillance Technology**

- Publicly release contracts for surveillance technology, including UAV, social media scrubbing, phone unlocking devices, etc.
- Every time each is used, create a process to have a master list of each use. Provide that list to the CPRB. Then, provide CPRB with a list of warrants corresponding to uses.
- Information obtained by surveillance will be destroyed as soon as an investigation or related criminal proceedings are finished, and a copy or detailed description of all data compiled on anyone will be relayed to them. There will not be a central collection, database, or comparison of data obtained through surveillance.
  - o Chief will create a policy to make a report for every time these technologies are used.
- Within 30 days, report, and copy of any warrant, get sent to CPRB

#### **E. Public Access to Data on Stops and Other Incidents (implementing new law against racial profiling)**

- Require APD to collect data on all stops (traffic stops and pedestrian stops) that includes the race and gender of the person stopped and the officer involved, the nature of interaction between officer and driver (e.g., cordial, investigations, tense, combative), location, the length of the stop, as well as the reason for the stop and the outcome of the stop (search, citation, arrest, warning, etc.). If a search was conducted, it should be clear whether the search occurred prior to arrest or incident to arrest.
- Requiring APD to make all of this data available online on APD's open data site, which has been collapsed into the City of Albany's open data portal (<https://data.albanyny.gov/>). The new data available via city's portal is aggregated to levels of neighborhood and patrol zone. APD should share data at lower level of analysis, e.g., geographic coordinates, street segment, or block level.
- Require APD to compile and report all of this data to the Common Council and CPRB on a quarterly basis.
- Require APD to review policy regarding documentation of incidents other than stops, and consider either (a) requiring officers fill out either field interview card or

document incident as "civil problem", or (b) offer complainant option to fill out own "citizen report"; other agencies do this and it allows complainants to document an incident at police department, including getting a formal police report number, even if officer did not think it was reasonable to take a report; this seems like it would alleviate many of the concerns from complainants who express concern that without a report it is as if incident never occurred.

## II. CPRB PROCEDURES

### F. CPRB Access to Information

Add new sections to 42-342:

- "The CPRB shall have full access to information about any officer involved in the events that are the subject of a complaint, including information about prior complaints about that officer and any action taken in response to those complaints. It shall be within the discretion of the CPRB whether to discuss in a public meeting, or include in the CPRB's findings, or otherwise make public, that information."
- "When a complaint is filed, and the Department has any audio or video footage pertaining to the incident (including, but not limited to, body-camera footage and dashboard-camera footage), the Department shall make that footage available for viewing by any member of the CPRB upon request. If the Department fails to make the footage available within fourteen (14) days, it shall forward notice to the CPRB and the Common Council explaining the delay. It shall be within the discretion of the CPRB whether to discuss in a public meeting, or include in the CPRB's findings, or otherwise make public, that information."

### G. Delays in Investigating Cases

- Add the bolded language to 42-343(c): "Professional Standards shall begin its investigation of each complaint immediately upon receipt of the complaint. If Professional Standards fails to conclude its investigation within 60 days of receipt of the complaint, it shall advise the CPRB **and the Common Council** in writing of the status of the investigation and the estimated time for the conclusion of the investigation. Thereafter, Professional Standards shall advise the CPRB **and the Common Council** in writing of the status of the investigation every 30 days until the conclusion of the investigation."

## III. OTHER REFORMS

### H. When Officers Turn Off Recording Devices

- Make it a civil or criminal offense for an officer to deactivate a video or audio recording device such as a body camera when responding to an incident. (Such cases may already constitute obstruction of justice, if they involve the intent to obstruct a possible investigation, but obstruction of justice is difficult to prove.)

## **I. Criminal and Oversight Referrals**

- The Police Review Board shall have the power to make a referral to appropriate criminal and oversight authorities in any case in which its members conclude (and find, by majority vote) that there is probable cause to think that an officer or employee of the Albany Police Department has violated the law.

## **I. Public Statements about Cases**

- "No member of the Police Department shall make a public statement about a case or incident unless they simultaneously make public all documents and recordings relevant to the case, including any material that would be subject to disclosure under *Brady v. Maryland* and related cases." The Board has expressed serious concern about cases in which the Chief or members of the Police Department have made public statements immediately following an incident. Understandably, these statements are typically favorable to the Department's view of the case. But when the Police Department has in its possession evidence, such as video footage, that may show facts less favorable to the Department, it is unfair to give the public only one side of the story.
- The Common Council should also explicitly give the Police Chief (or their designee) the power to comment on individual cases of alleged misconduct by officers, and encourage the Chief to acknowledge apparent misconduct where he believes it exists.

## **J. Codify Core Principles**

- The Common Council should incorporate into the statutory and/or charter provisions governing the Police Department these core principles: trust and partnership (between police and community), transparency, accountability, guardian/protector mentality.

The following proposals were also discussed from the Community Outreach Committee:

- Independent counsel, subpoena power, involvement with the disciplinary process, access to unredacted personnel files;
- Hire non-sworn criminal investigators (similar to investigators employed in the public defender's office) to conduct investigations parallel and in collaboration with OPS;
- CPRB having authority to initiate investigations;
- The ability to audit department records, new position or unit within Albany City Auditor's office;
- Involvement in hiring, promotion, and training on community policing and oversight;
- Ability to monitor protests (model in Washington D.C.);
- Board designee that participates in command staff meetings as a non-sworn member;
- Oversight of the Drum program, facial recognition, etc.

- Respond to alongside officer calls for service (like modeled with journalists sent overseas during wartime);
- If CPRB renders dissent with board's finding, incorporate dissent into public record;
- Allow signed and anonymous complaints;
- Appoint community members who are victims of police brutality to the board;
- Tie the CPRB appropriation to the annual appropriation of the police department budget;
- Unrestricted oversight into all department operations including the special unit, oversight of intelligence gathering (Rochester and Chicago has a model).

## **CONCLUSION**

The Board re-elected and elected Board officers; elected chairs and members for its committees and task force; continued to work collaboratively with the APD towards the enactment of a mediation program; revisited its outreach practices and complaint forms; served as guest lecturers to community-based organizations and tabled at a local event; reviewed complaints and closed a total of twenty-two of its active complaints; held seven regular monthly meetings; held several committee/task force meetings and trainings; reviewed and approved four quarterly reports and one annual report; and participated in meetings with the APD Command Staff, the Office of Professional Standards, the Albany Common Council's Public Safety Committee, and City officials.

The Albany Community Police Review Board has remained dedicated to improving communication between the City of Albany Police Department and the community; increasing police accountability and credibility with the public; and building upon and maintaining a complaint review process that is credible, impartial, and fair to all.

Respectfully submitted,

The 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:

## **APPENDIX: DEFINITIONS**

**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.

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

**CPRB or BOARD** - The Community Police Review Board.

**GOVERNMENT LAW CENTER (GLC)** - The Government Law Center at Albany Law School.

**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.

**MONITOR** – A qualified individual with an investigative background whom the Board appoints to objectively investigate a complaint that involves allegations of excess use of force and/or a violation of the complainant’s civil rights.

**OFFICE OF PROFESSIONAL STANDARDS (OPS)** - The Professional Standards Unit of the City of Albany Police Department.

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:

**SUSTAINED** – where the review discloses sufficient facts to prove the allegations made in the complaint.

**NOT SUSTAINED** – where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

**EXONERATED** – where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.

**UNFOUNDED** – where the review shows that the act or acts complained [of] did not occur or were misconstrued.

**INEFFECTIVE POLICY OR TRAINING** – where the matter does not guilt or lack thereof, but rather ineffective departmental policy or training to address the situation.

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 complaint withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.

MEDIATION – where the complaint is resolved by mediation.

REFERRED BACK TO OPS FOR FURTHER INVESTIGATION – where the Board refers a case under review back to OPS to reexamine or investigate a particular issue or material fact(s).

DEFERRED VOTE – where the Board delays or postpones a vote pending additional information or facts from OPS.