



City of Albany  
Community Police Review Board

*2021 1st Quarter Report*

*November 1, 2020 – January 31, 2021*

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 November 1, 2020 to January 31, 2021.

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](http://ecode360.com/7680044). More information on the Board can be found on its website, [albanycprb.org](http://albanycprb.org).

## **Board Membership**

The following members constituted the Board during the first quarter of 2021:

1. Ivy Morris, *Chair*;
2. Veneilya A. Harden, *Vice Chair*;
3. Larry Becker, *Secretary*;
4. Reverend Victor Collier;
5. Zach Garafalo;
6. Matthew Ingram;
7. Nairobi Vives (appointed October 26<sup>th</sup>, 2020);
8. Victor Person (appointed October 26<sup>th</sup>, 2020; and
9. Paul Collins-Hackett (appointed December 21<sup>st</sup>, 2020)

As of January, 2021, there is 1 position open for a mayoral appointment.

## **Elections**

On January 14<sup>th</sup>, 2021, Former Board Chair, Ivy Morris' board term ended. Nairobi Vives was elected to serve as Chair, Veneilya Harden was elected to service as Vice-

Chair, and Paul Collins-Hackett were elected to serve as Secretary at the January board meeting.

## **Meetings**

The Board met 3 times to conduct business in the First 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.

## **Complaint Review**

When the Community Police Review Board receives complaints, it forwards them to the Albany Police Department's Office of Professional Standards. That office reviews and investigates the allegations. In some cases, the Review Board appoints a "monitor" (an independent observer/investigator), who participates in the investigation. The Office of Professional Standards prepares a report on the allegations, including its findings on those allegations. If there's a monitor, the monitor also prepares a report.

The Review Board then has an opportunity, at its monthly case-review meeting, to ask any questions of the Office of Professional Standards or the monitor; the complainant also has a chance to speak to the Review Board if they choose. The Board then votes separately on each allegation in the complaint. It makes findings, which are advisory in effect. If the Board is dissatisfied, it can request further investigation from the Office of Professional Standards or action by the Common Council.

The Board reviewed and made findings on 1 complaint in the first quarter of 2021: CC2019-006.

The Board returned 1 case to OPS for further investigation during this quarter: CC2018-023.

No cases were referred for mediation in the first quarter.

OPS Case No.	Case Synopsis	OPS Finding	CPRB Finding
<p><b>1. CC2019-006</b></p>	<p>Complainant alleges that officers tackled them in the process of being arrested, that they were pushed out of the car when arriving to the station, and that the officers failed to read Miranda rights.</p> <p>Allegation(s):</p> <ol style="list-style-type: none"> <li>1. Use of Force</li> <li>2. Use of Force</li> </ol>	<ol style="list-style-type: none"> <li>1. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.</li> <li>2. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.</li> </ol>	<ol style="list-style-type: none"> <li>1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.</li> <li>2. Not sustained - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.</li> </ol>
<p><b>3. CC2018-023</b></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"> <li>1. Use of Force (2 cts)</li> <li>2. Arrest Authority &amp; Procedure</li> <li>3. Call Handling (2 cts)</li> </ol>	<ol style="list-style-type: none"> <li>1. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.</li> <li>2. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.</li> <li>3. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that</li> </ol>	<p><i>Under review</i></p>

		<p>the act or acts were proper.</p> <p>4. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.</p> <p>5. Exonerated - the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.</p>	
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### Complaint Summaries

The Board received 2 new complaints during the first quarter: CC2020-018 and CC2021-001. There are 37 active complaints. “Active” means the complaints have not been returned to the Board from OPS for review or are still under review by the Board.

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.

#### OPS #: CC2019-006

**On the first allegation of ‘Use of Force,’ OPS made a finding of: Unfounded** (the review shows that the act or acts complained did not occur or were misconstrued). OPS reports the following:

Officer Haller ordered the complainant to leave the location several times, explained the consequences should she choose not to exit the

store and exhibited extreme patience throughout the interaction. The complainant's numerous refusals to comply with his lawful instructions resulted in Haller's decision to arrest complainant for trespass. When Officer Haller attempted to place the complainant into custody, complainant begins to yell and pulls away in an attempt to avoid her being placed into hand cuffs (BWC, on file). Officer Haller is observed bringing the complainant to the ground in a controlled manner utilizing an arm bar technique. The complainant's allegation that Officer Haller tackled her to the ground is inaccurate.

**Monitor's Findings:** Monitor Balfe was assigned to the case. Monitor Balfe agrees with the findings made by OPS. Balfe reports the following:

PO #1 and #2 ordered the complainant to leave the location numerous times and told her if she did not, she would be arrested for trespassing. They gave her plenty of time and patience in this situation and she showed zero respect for their authority and the store staff, exhibited sarcasm and put the officers, herself and others at risk of injury.

The video from the store and her own camera show exactly what transpired. She was not complying and was warned. It is the Police Officers' job to keep the public safe, themselves safe and the subject. No unnecessary force was used.

**CPRB Discussion:** Garafalo wanted to know if there was any indication of mental health issues that should have been considered in this incident. Discrepancy between facts reported by officers who reported how complainant was put on the ground.

Rev. Collier and Monitor Balfe responded that based on the video footage it appears that complainant was placed on the ground in a controlled manner. In response to mental health question, complainant appeared incoherent and was not responding appropriately to what was being asked of her. Does not feel he can make that judgment about her mental state.

**CPRB Finding:** The complaint was reviewed at the November board meeting where the board voted unanimously in favor of "**Unfounded**" finding.

**On the second allegation of 'Use of Force,' OPS made a finding of: Exonerated** (the acts which are the basis for the complaint occurred, but the review shows that the act or acts were proper). OPS reports the following:

Officer Adams indicates that complainant was passively refusing to exit the police vehicle (once arriving at the South Station) and that he assisted her by placing her feet outside the unit while Officer Zeilman

aided her extraction from inside the rear driver side compartment of the cruiser. The BWC video shows the complainant being removed from the rear of the police unit in a temperate manner. The removal was accomplished by the cooperation of Officer Adams and Zeilman in what appears to be the most expedient and least forceful manner.

**Monitor's Findings:** Monitor Balfe was assigned to the case. Monitor Balfe agrees with the findings made by OPS. Balfe states the following:

PO #1, #2 and #3 and #4 all stated that the Complainant was refusing to exit the police vehicle (once arriving at the South Station) and none of them saw any use of excessive force and they all agreed with how she exited the patrol car. The body cam video confirms it; no force was used. PO #1 assisted C by placing her feet outside the unit while PO #3 aided her extraction from inside the rear driver side compartment of the cruiser.

**CPRB Discussion:** No discussion.

**CPRB Finding:** The complaint was reviewed at the November board meeting where the board voted unanimously in favor of "**Unfounded**" finding.

#### **OPS #: CC2018-023**

This case involves 2 counts of Use of Force allegations, 2 counts of Call Handling allegations, and an Arrest Authority and Procedure allegation.

**On first count of the 'Use of Force' allegation, OPS made a finding of: Exonerated** (the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper). OPS reports the following:

The complainant alleges that the initial Officer (along with other officers) threw him to the ground and placed his knee on his neck which made it difficult for him to breathe. Officer interviews, Officer IDC's, a Use of Force Report, and BWC footage is all consistent. The complainant did intentionally resist his lawful arrest by refusing numerous commands, pulling away from officers, flailing his arms and attempting to run away. The complainant was tackled to the ground by Officers after an arm bar leg sweep failed. Officers did then pull the complainant's arms from underneath his body. An Officer stated he placed his knee on the side of the complainant's head briefly as a pain compliance technique to facilitate the application of handcuffs to the complainant by the other officers. The complainant's breathing was not obstructed at any time.

**On second count of the ‘Use of Force’ allegation, OPS made a finding of: Exonerated** (the acts which are the basis for the complaint occurred, but the review shows that the act or acts were proper). OPS reports the following:

The CO alleges the above listed force used against him resulted in him sustaining a gash to his head. On 9/12/18 the CO took a photo with his cell phone of an alleged “gash” that is located above his left eyebrow. The CO alleges said wound occurred on 9/7/18 when he was forced to the ground by officers (“road rash”). On 9/7/18 (date of incident), body camera footage from an Officer while in the ER with the CO shows no wound existing. Said video also shows the nurses and doctor never treating the CO for any head wound. The CO’s medical documentation indicates no injuries and treated his asthma on a precautionary level.

**On the allegation of ‘Arrest Authority and Procedure’, OPS made a finding of: Exonerated** (the acts which are the basis for the complaint occurred, but the review shows that the act or acts were proper). OPS reports the following:

The complainant alleges an Officer stopped him on Second St. for going the wrong way down a one-way street on a bicycle (which the CO admitted he was). The officer stated that the CO is correct; he witnessed the CO violating NYS V&T 1127 and issued a ticket for such.

**On first count of the ‘Call Handling’ allegation, OPS made a finding of: Unfounded** (the review shows that the act or acts complained did not occur or were misconstrued). OPS reports the following:

The CO alleges the officers drove him to a vacant parking lot where he thought they were going to kill him, but he was only searched. How the CO felt cannot be helped, however, due to officer safety concerns, the CO was searched in a safe location as they felt the crowd surrounding them had the potential to become combative towards them. Also, prisoners are to be thoroughly searched prior to entering Central Booking again, for everyone’s safety.

**On the second count of the ‘Call Handling’ allegation, OPS made a finding of: Exonerated** (the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper). OPS reports the following:

The complainant alleges he was suffering from asthma at the time causing him to be dizzy and disoriented. He was then brought to South Station to be processed then transported to AMCH for treatment. Per Officer interviews and IDC’s, the CO did complain of difficulty breathing. The CO was administered his inhaler. Once in Central

Booking the CO continued to complain and the Booking Sergeant subsequently called for AFD to examine the CO.

**Monitor's Findings:** Monitor Lawrence was assigned to the case. Monitor Lawrence agrees with the findings made by OPS. Lawrence reports the following:

There is no video footage of the initial stop of complainant on August 31. Thus, it is impossible to determine from video whether, as he claims, he was merely walking down the street and had no contact or familiarity with the other men arrested on that date. Officer 8, who initiated the stop, indicates that all three men were lingering in front of the house, which had been posted as part of the TAP program. Given that the complainant had been recorded at the address with the same men a month earlier and that a bag with packages similar to the one found on the premises was subsequently uncovered in his trunk, there seems reason to doubt his claim that he was merely passing the house and did not know the other men. In any event, the question of whether there was reasonable suspicion to stop the complainant seems one that should be determined in the courts, as should the propriety of the inventory search of his vehicle.

A week later, the complainant was spotted nearby on a bicycle by the Sergeant, who had been involved in the earlier arrest. The Sergeant claims that the complainant was riding the wrong-way on a one-way street and forced him to brake in order to avoid a collision (although the need for braking was not mentioned in the written reports of the incident). Given the Sergeant's assignment, his knowledge of the complainant's earlier arrest and his familiarity with drug activity in the neighborhood, it is reasonable to assume that the Sergeant was concerned with more than a traffic violation when he ordered the complainant to stop. Nonetheless, he had a lawful reason to stop him concerning a legitimate violation. Rather than comply, the complainant fled, mingled in a nearby crowd and, when accosted, denied wrongdoing, paced about and ignored commands to turn around and put his hands behind him. This is confirmed by body cameras and the accounts of three other officers at the scene.

Body cameras portray the complainant's arm being grabbed and a scuffle ensuing, but it is difficult to see exactly what force was used to subdue him. The Sergeant acknowledges placing his knee on complainant's head in order to gain compliance. The Sergeant denies that he was thrown against a car. The officers insist that he was not punched or kicked, and the complainant made no such allegation. His witness also indicated that he saw no punching or kicking and acknowledges that the complainant "stood his ground" against the police commands. Although complainant alleged in his complaint and interview that he was cut above the eye, there is no indication that he

complained of a head cut at the scene, at booking or at the hospital and no indication that he was treated for such a cut on September 7. He did complain of being unable to breathe and of pain, but his respiratory functions were determined at the hospital to be normal. He was not given medication for pain, and his movements appeared in videos to be flexible and normal upon leaving the hospital and returning to booking. It cannot be determined that the blood in his urine a week later had any connection with the force used to arrest him on September 7. Thus, there is no indication from injuries that excessive force was used.

**CPRB Discussion:** Morris requested to have other CPRB members review the complaint because there were concerns about what she viewed from bodycam footage. Becker and Vives both stepped in to review the case.

Becker met with CDR. Battuello and D/Lt. Decker in December regarding the case. Becker requested that OPS take another look at the case and video footage. OPS agreed to reexamine the case based on feedback from CPRB members.

Becker made three separate visits to review bodycam footage available from different officers. Much information provided in the footage deserves closer examination and re-examination. Becker is seeking to have complainant join meeting in future discussions. Complainant was unable to join the December board meeting.

Vives also reviewed footage although not as much as Becker, based on what she reviewed she agrees with the recommendation for OPS to re-examine the case.

**CPRB Finding:** The complaint was reviewed at the December board meeting. This case is still under review.

### **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

### **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:

**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] di 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.