



City of Albany
Community Police Review Board

2021 2nd Quarter Report

February 1, 2021 – April 30, 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 February 1, 2021 to April 30, 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 by 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 about 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 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 second quarter of 2021:

1. Nairobi Vives, *Chair*;
2. Veneilya A. Harden, *Vice Chair*;
3. Paul Collins-Hackett, *Secretary*;
4. Larry Becker
5. Reverend Victor Collier;
6. Zach Garafalo;
7. Matthew Ingram; and
8. Victor Person

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

Complaint Review

The Review Board begins reviewing each case after it receives a “preliminary” report from the Albany Police Department’s Office of Professional Standards (OPS). The OPS report recounts the facts of the complaint, the facts revealed by OPS’s investigation, and OPS’s recommendations about the case. Each board member is entitled to view that report and the report prepared by any individual appointed by the Board as observer, monitor or investigator, as well as to question the investigator from the Office of Professional Standards who was principally responsible for preparing the preliminary report, and also the individual appointed by the Board as an observer, monitor or investigator. The Board is also entitled to ask for fuller description of the matter contained in the preliminary report and to ask such other questions as may enable them to vote on a fully informed basis . The Board then makes findings on each case, which are forwarded to the complainant and the Police Department.

The Board reviewed and made findings on 3 complaints in the second quarter of 2021: CC2018-017, CC2019-019 and CC2019-022.

The Board returned 1 case to OPS for further consideration of board concerns during this quarter: CC2018-023.

No cases were referred for mediation in the second quarter.

OPS Case No.	Case Synopsis	OPS Finding	CPRB Finding
<p data-bbox="201 86 386 155">1. CC2018-023</p> <p data-bbox="147 201 386 310">*are additional OPS allegations and findings</p>	<p data-bbox="440 86 688 806">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 data-bbox="467 812 656 846">Allegation(s)</p> <ol data-bbox="500 852 786 1150" style="list-style-type: none"> <li data-bbox="500 852 786 919">1. Use of Force (2 cts) <li data-bbox="500 926 786 993">2. Arrest Authority & Procedure <li data-bbox="500 999 786 1066">3. *Call Handling (3 cts) <li data-bbox="500 1073 786 1140">4. *Conduct Standards 	<ol data-bbox="862 86 1127 1875" style="list-style-type: none"> <li data-bbox="862 86 1127 541">1. Exonerated – where the review shows the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. <li data-bbox="862 548 1127 877">2. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued. <li data-bbox="862 884 1127 1339">3. Exonerated – where the review shows the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper. <li data-bbox="862 1346 1127 1675">4. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued. <li data-bbox="862 1682 1127 1875">5. Exonerated – where the review shows the acts which prove the 	<p data-bbox="1230 86 1425 119"><i>Under review</i></p>

		<p>basis for the complaint occurred, but the review shows that the act or acts were proper.</p> <p>6. *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.</p> <p>7. *Violation of Policy – G.O. Rules of Conduct 2.2.00-24 – Courtesy – where officer(s) is found to be in violation of above listed general order.</p>	
2. CC2019-022	<p>Complainant filed several complaints with APD for various reasons (ID theft, burglary). Complainant alleges that no one followed up on the</p>	<p>1. Unfounded – where the review shows that the act or acts complained did not occur or were misconstrued.</p>	<p>1. Unfounded – where the review shows that the act or acts complained did not occur or were misconstrued.</p> <p>2. Not Sustained – where review fails to disclose</p>

	<p>complaints and incident number was denied. Complainant also alleges that she was involuntarily committed to Albany Medical Center by the responding officer.</p> <p>Allegation(s):</p> <ol style="list-style-type: none"> 1. Call Handling (3 cts) 	<ol style="list-style-type: none"> 2. Not Sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. 3. Not Sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. 	<p>sufficient facts to prove or disprove the allegation made in the complaint.</p> <ol style="list-style-type: none"> 3. Not Sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
<p>3. CC2019-019</p>	<p>The complainant reported an attack at a Trump rally to officers. Complainant reported that responding officers were disrespectful and did not pay attention to his claim.</p> <p>Allegation(s):</p> <ol style="list-style-type: none"> 1. Call Handling (2 cts) 2. Conduct Standards (2 cts) 	<ol style="list-style-type: none"> 1. Unfounded – where the review shows that the act or acts complained did not occur or were misconstrued. 2. Sustained - where the review discloses sufficient facts to prove the allegations made in the complaint. 3. Not sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. 4. Not sustained – where review fails to disclose 	<ol style="list-style-type: none"> 1. Unfounded – where the review shows that the act or acts complained did not occur or were misconstrued. 2. Sustained - where the review discloses sufficient facts to prove the allegations made in the complaint. 3. Not sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. 4. Not sustained – where review fails to disclose sufficient facts to prove or disprove

		sufficient facts to prove or disprove the allegation made in the complaint.	the allegation made in the complaint.
<p>4. CC2018-017</p>	<p>Complainant alleges that they reported stalking concerns to APD officers that were not handled properly.</p> <p>Allegation(s):</p> <ol style="list-style-type: none"> 1. Call Handling (2 cts) 	<ol style="list-style-type: none"> 1. 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. 2. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued. 	<ol style="list-style-type: none"> 1. 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. 2. Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.

Complaint Summaries

The Board received 6 new complaints during the second quarter: CC2021-002, CC2021-005, CC2021-007, CC2021-010, CC2021-011 and CC2021-012. There are 46 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 #: 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. Following OPS re-investigation, 1 count of Call Handling and Conduct Standards were added to this complaint.

In the first quarter, this case was sent back to OPS for re-investigation. In the second quarter OPS returned a summary with two additional findings as updates to the original findings following re-investigation:

OPS re-reviewed the case and report the original findings stand “as is” for both incidents.

On allegation of ‘Call Handling’, OPS made a finding of: Ineffective Policy and Training where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation. OPS reports the following:

In reference to 8/31/18, The Complainant alleges their vehicle was illegally searched (resulting in the found marijuana) and towed. It is recommended to have further training on Search and Seizure and the policy as it relates to towing and inventory.

On the allegation of the ‘Conduct Standards’, OPS made a finding of: Violation of Policy – where the review shows a violation of Rules of Conduct General Order 2.2.00-24 (Courtesy). OPS reports the following:

In reference to the 9/7/18 incident, Officer is found to be in violation of the listed General Order when he made numerous disrespectful and unprofessional comments to the Complainant.

CPRB Discussion:

Becker notes that he does not agree with the original findings of OPS and seeks to challenge the findings by raising it to the Chief of Police.

Becker notes that the reports filed by the officers present on the date of incident are inconsistent with what he observed in case review. Motion to reject OPS findings and recommends the board take appropriate next steps by statute. Ayers provides City Code §42-343(h). The Board inquires about if the findings have been reviewed by the Chief of Police and the Mayor. OPS confirms that Chief is aware of complaint's findings.

The Board is seeking specificity for both cases and both allegations of misconduct. Board requests a summary from OPS that encompasses as much of the events that the Board deems problematic.

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

OPS #: CC2019-022

This case involves 3 counts of Call Handling allegations:

On the first allegation of 'Call Handling,' OPS made a finding of: Unfounded where the review shows that the act or acts complained did not occur or were misconstrued. OPS reports the following:

The complainant alleges they were involuntarily committed to Albany Medical Center by APD. They were transported to CDPC voluntarily (not handcuffed, complainant walked in) via Mohawk ambulance to CPDC. Crisis was contacted prior, and the complainant was brought in under the strength of 9.41 and their willingness to walk into the ambulance.

On the second allegation of 'Call Handling,' OPS made a finding of: Not sustained where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. OPS reports the following:

The Complainant alleges that for the past three and a half years they have been a victim of various crimes and no one ever follows up with them. The Complainant did have two crime reports filed: an identity theft report filed in in 2012 and a larceny (not a burglary) report filed in 2016. APD Policy specifically, General Order 3.5.00 "Criminal Investigations: Administration," discusses the process from when a report is filed to how it becomes investigated, including any potential "solvability factors."

On the third allegation of ‘Call Handling,’ OPS made a finding of: Not sustained where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. OPS reports the following:

The Complainant alleges they went to South Station and told an Officer her apartment was burglarized and he never took a report. The extent of the conversation, if any that occurred is unknown, but undersigned did explain to the Complainant that a report would not be filed at the Station for a burglary as an officer needs to inspect the scene. It is unknown why a call was not entered if that was the case.

Monitor’s Findings: No monitor was appointed to this complaint.

CPRB Discussion: Becker seeks clarification of allegations and findings.

CPRB Findings: The complaint was reviewed at the April board meeting where the board voted unanimously in favor of “**Unfounded**” finding for the first allegation of Call Handling; “**Not sustained**” finding for the second allegation of Call Handling; “**Not sustained**” for the third allegation of Call Handling.

OPS #: CC2019-019

This case involves 2 counts of Call Handling and 2 counts of Conduct Standards allegations:

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

The Complainant alleges they and their friend were able to gather all the information about the alleged suspects, which they feel isn’t their job, and provided said information to the Detective who then failed to make any arrests. Both the Detective Sergeant and the Detective stated the only thing on the thumb drive was the video of the altercation which was placed into evidence.

On the second allegation of ‘Call Handling,’ OPS made a finding of: Sustained where the review discloses sufficient facts to prove the allegations made in the complaint.

The Complainant states the Detective Sergeant told them that APD dropped the ball and that the statute of limitations to arrest said individuals had passed. The Complainant feels the lack of

professionalism is unacceptable. The Detective Sergeant admitted in his interview that he did tell the Complainant that sometimes cases do “slip through the cracks” and the Detective Sergeant apologized for it numerous times; it was not intentional and that the statute of limitations for the crimes (misdemeanors) had passed.

On the first allegation of ‘Conduct Standards’, OPS made a finding of: Not sustained where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

The Complainant alleges they were told to go to SSTA to meet with the Detective and he was not there. The Detective states he does not recall every receiving a call to meet with either party and states he never intentionally ignored anyone.

On the second allegation of ‘Conduct Standards’, OPS made a finding of: Not sustained where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

The Complainant alleges they were not called and they would not talk to his friend on his behalf. It is common practice for a Detective to speak with the Victim/Complainant of a crime themselves. It was understood that the Complainant was out of town due to the nature of his job. However, the friend wanted information about said case and then she would relay said information to the Complainant; if they could have contact with the Complainant, the Complainant possibly could have returned one call to the Detective’s Office.

Monitor’s Findings: No monitor appointed to this complaint.

CPRB Discussion: No discussion.

CPRB Finding: The complaint was reviewed at the April board meeting where the board voted unanimously in favor of “**Unfounded**” finding first allegation of Call Handling; “**Sustained**” finding for the second allegation of Call Handling; “**Not sustained**” for the first allegation of Conduct Standards; and “**Not sustained**” for the second allegation of Conduct Standards.

OPS #: CC2018-017

This case involves 2 counts of Call Handling allegations:

On the first allegation of ‘Call Handling,’ OPS made a finding of: 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. OPS reports the following:

Based on the fact that there are no officers specified to interview or IDC, no call tickets associated with possible harassment by MC Lyte, and the complainant was unable to provide full names and phone numbers for the listed witnesses in their Citizen Complaint Form, there is no further information to be obtained to further an investigation.

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

Police Officers conduct preliminary investigations when presented with allegations of criminal activity. Part of the investigation process involves the interviewing of persons and the collection of information in order to determine if the required elements of a crime exist or not. The officer must determine if the prosecutorial merit of the allegation is sufficient to substantiate the generation of a Police Crime Report. According to the Complainant’s IDC/BWC, the officer asked relevant questions in an attempt to establish the necessary elements for the complainant to file Criminal Contempt accusatory instrument (charge); the complainant was unable to provide the officer with any evidence that a violation of the Order of Protection had occurred that day. The complainant was looking for a report, however, there would need to be some sort of evidence to indicate something had occurred (example, if the woman had threatened the complainant, come onto the complainant’s property, called the complainant, or have someone harass the complainant on her behalf). The BWC indicated the woman did none of those things and was in a public place when the complainant saw her. Had there been enough evidence presented to him to qualify as “Criminal Contempt” he would have completed a Standard Incident Report. The woman according to APD’s database, resides on Clinton Av and therefore has a legitimate reason to be in the area.

Monitor Findings: No monitor appointed to this complaint.

CPRB Discussion: No discussion.

CPRB Findings: The complaint was reviewed at the April board meeting where the board voted unanimously in favor of “**No Finding**” finding on first allegation of Call Handling and “**Unfounded**” finding for the second allegation of Call Handling.

Meetings

The Board met 3 times to conduct business in the Second 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 in February, March and April. The Board meets on the second Thursday of every month, encourages 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

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.