

# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **First Quarterly Report February 1, 2012**

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



First Quarterly Report of the City of Albany  
Citizens' Police Review Board

February 1, 2012

**Submitted to:**  
The Mayor of the City of Albany  
The Common Council of the City of Albany  
The Police Chief of the City of Albany

## **BACKGROUND**

Section 42-340 of Chapter 42, Part 33 of the Albany City Code requires the Government Law Center of Albany Law School to file, on behalf of the Albany Citizens' Police Review Board (CPRB), quarterly reports containing "statistics and summaries of citizen complaints, including a comparison of the CPRB's findings with the final determinations of the [Police] Department." This is the First Quarterly Report so submitted in the year 2012.

## **DEFINITIONS**

For purposes of this report, the following words and phrases shall have the meaning described in this report:

**COMPLAINT** – A written statement concerning police conduct which is either submitted to the Citizens' Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department.

**CPRB or BOARD** – The Citizens' 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)** – The Professional Standards Unit of the City of Albany Police Department.

## **INTRODUCTION**

The Government Law Center of Albany Law School was retained by the City of Albany to provide a number of services to the Board, the City, and the community. Many of these services are discussed, as appropriate, below.

## **ORGANIZATION OF THE BOARD**

The following members constituted the Board during the first quarter of 2012:

Marilyn Hammond  
Andrew Phelan, Jr.  
Anthony Potenza

Eugene Sarfoh  
Reverend Edward Smart  
Akosua Yeboah

During the first quarter, the Board's elected officers were:

Chair	Reverend Edward Smart
Vice-Chair	Anthony Potenza
Secretary	Andrew Phelan, Jr.

*Nominations and Elections for Board Officers*

At the Board's January 12, 2012 meeting, nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board's Bylaws (Art. IV, Section 1). At that meeting, Reverend Edward Smart was nominated for the Chair position, Anthony Potenza was nominated for the Vice-Chair position, and Andrew Phelan, Jr. was nominated for the position of Secretary. The slate will be presented, voted on, and reported in the second quarter of 2012.

*Nominations and Elections for Committee/Task Force Chairs*

At the Board's January 12, 2012 meeting, the Board agreed to keep the committee and task force list of Chairs and committee members the same. The Board also agreed that any member serving as Chair of more than one committee/task force would only be in that position temporarily until new members are appointed to the Board.

*Vacancies and Re-Appointments*

During the first quarter of 2012, the Board had three (3) vacancies to be filled by the Albany Common Council. Those three (3) vacancies were created by Board members Jason Allen, James Frezzell, and Lilian Kelly who resigned in the last quarter. The Common Council's Public Safety Committee has been notified of the vacancies. During the first quarter Board members have participated in interviews held by The Common Counsel in an attempt to fill the three (3) vacancies.

On November 3, 2011, City of Albany Mayor Gerald D. Jennings re-appointed Marilyn Hammond as a member of the CPRB to serve a three-year term which will expire on October 26, 2014. Board member Anthony Potenza was not re-appointed during the first quarter of 2012. His re-appointment will be reported in the second quarter of 2012.

*Committees and Task Force*

The following committees and task force were operational in the first quarter of 2012:

<i>By-Laws and Rules</i>	Reverend Edward Smart (Chair) Anthony Potenza Akosua Yeboah
<i>Community Outreach</i>	Akosua Yeboah (Chair) Eugene Sarfoh Reverend Edward Smart ( <i>ex-officio</i> )

<i>Complaint Review</i>	Andrew Phelan, Jr. (Chair) Marilyn Hammond Anthony Potenza Eugene Sarfoh Reverend Edward Smart Akosua Yeboah
<i>Mediation</i>	Reverend Edward Smart (Chair) Anthony Potenza
<i>Police Department Liaison- Policy Review/ Recommendations</i>	Andrew Phelan, Jr. (Chair) Anthony Potenza Reverend Edward Smart ( <i>ex-officio</i> )
<i>Public Official Liaison</i>	Reverend Edward Smart (Chair) Andrew Phelan, Jr. Anthony Potenza Akosua Yeboah
<i>Task Force on Monitors</i>	Akosua Yeboah (Chair) Marilyn Hammond Reverend Edward Smart ( <i>ex-officio</i> )

## **BY-LAWS AND RULES/MEDIATION**

The Board awaits the status of the mediation program from the Albany Police Department. In the last quarter, the new APD union representatives were asked to meet with their attorney regarding the mediation program. As of the last quarter, the APD did not expect a response until after the union elections. In the first quarter of 2012, the Board actively awaits the status of the mediation program from the Albany Police Department.

## **COMMUNITY OUTREACH**

During the first quarter of 2012, Board member Akosua Yeboah conducted a CPRB educational presentation with the Center Square Neighborhood Association.

On January 25, 2012, the Committee conducted a presentation to members of the New York Civil Liberties Union (NYCLU). The Committee is in the process of looking into scheduling an informational session with the public. The Committee has also been busy with the drafting of new brochures. The brochures will be translated from English to Spanish and presented to the Board for final approval. The Committee also agreed to help Albany Common Council Public Safety Committee with the interview of new Board members.

## COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the four (4) appointed members of the Committee on Complaint Review, in addition to the Chair of the Committee, will be responsible for the presentation of a particular complaint to the Board at its monthly meetings as assigned by the Chair of the Committee. Twelve (12) complaints were presented and reviewed in the first quarter of 2012.

The following Board members were appointed to serve on the Committee on Complaint Review:

November 2011	Marilyn Hammond, Anthony Potenza, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.
December 2011*	Marilyn Hammond, Anthony Potenza, Eugene Sarfoh, and Chairman Edward Smart.
January 2012	Marilyn Hammond, Andrew Phelan Jr., Anthony Potenza, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.

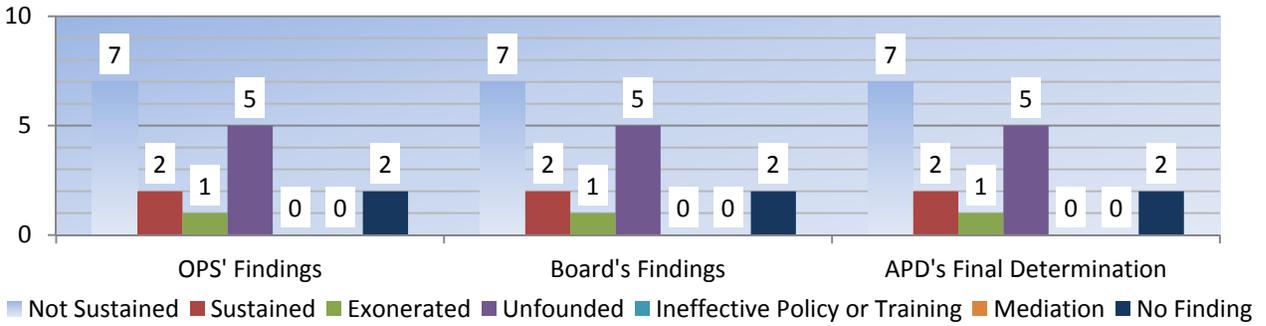
\*The Board did not meet in November 2011; therefore, Board members were not assigned to serve for complaint review for the December meeting. The Board members listed for December 2011 are those who reviewed complaints during that meeting.

## COMPLAINT SUMMARIES AND STATISTICS

Section 42-340C of Chapter 42, Part 33 of the Albany City Code charges the Board with providing "statistics and summaries of citizen complaints, including a comparison of [its] findings with the final determinations of the [Police] Department."

During the first quarter of 2012, the Board received five (5) new complaints in addition to its thirty-seven (37) active complaints and thirteen (13) suspended complaints. Monitors were appointed to investigate two (2) of the five (5) new complaints. Of the forty-two (42) complaints before the Board, the Board presented twelve (12) complaints for review and rendered findings for the allegation(s) contained in all twelve (12) complaints. These twelve (12) complaints were closed and contained a total of seventeen (17) allegations of misconduct. As to the twelve (12) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all twelve (12) cases.

Board action was taken in one (1) complaint, which was filed in the fourth quarter of 2011, because the complaint involved a public service officer (meter attendant) and not a police officer. The Board does not have jurisdiction over public service officers. This action included the Board voting unanimously not to accept and review this complaint. In the first quarter of 2012, no complaints were reviewed and sent back to the OPS for a further investigation.



**Figure 1:** Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the First Quarter of 2012.

Figure 1 depicts a comparison of the findings made by the Board and the findings made by the Police Department, including the preliminary findings of the Office of Professional Standards and the Albany Police Department's final determinations. The following is a summary of those complaints:

**CPRB No. 55-10/OPS No. CC2010-116** [no monitor appointed]

Nature of the Allegation(s): Call Handling – responding officers failed to assist the complainant.

OPS Preliminary Finding(s): **Sustained** as to the call handling allegation.

CPRB Finding(s): **Sustained** as to the call handling allegation.

APD Final Determination(s): **Sustained** as to the call handling allegation.

**CPRB No. 56-10/OPS No. CC2010-131** [monitor appointed]

Nature of the Allegation(s): Use of Force – bouncers and officers assaulted the complainant and the officers pointed a gun and taser at the complainant.

OPS Preliminary Finding(s): **Not Sustained** as to the use of force allegation.

CPRB Finding(s): **Not Sustained** as to the use of force allegation.

APD Final Determination(s): **Not Sustained** as to the use of force allegation.

**CPRB No. 58-10/OPS No. CC2010-139** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – a detective did not present the complainant with a copy of a warrant; was verbally abusive; and pushed his way into the complainant's home.

OPS Preliminary Finding(s): **No Finding** as to the conduct standards allegation.

CPRB Finding(s): **No Finding** as to the conduct standards allegation.

APD Final Determination(s): **No Finding** as to the conduct standards allegation.

**CPRB No. 61-10/OPS No. CC2010-146** [no monitor appointed]

Nature of the Allegation(s): Call Handling – the complainant and her family are the only ones receiving parking tickets while others who violate parking rules are not.

OPS Preliminary Finding(s): **Unfounded** as to the call handling allegation.

CPRB Finding(s): **Unfounded** as to the call handling allegation.

APD Final Determination(s): **Unfounded** as to the call handling allegation.

**CPRB No. 6-11/OPS No. CC2011-014** [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling – the complainant was assaulted by someone and officers refused to take a report;  
2) Call Handling – the officers failed to provide medical attention for the complainant; *and*  
3) Conduct Standards – an officer threatened to hurt the complainant.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation; *and*  
3) **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation; *and*  
3) **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the first call handling allegation;  
2) **Not Sustained** as to the second call handling allegation; *and*

3) **Not Sustained** as to the conduct standards allegation.

**CPRB No. 7-11/OPS No. CC2011-004** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer failed to tell the complainant why he was pulled over; and the officer was rude and used profanity.

OPS Preliminary Finding(s): **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s): **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s): **Not Sustained** as to the conduct standards allegation.

**CPRB No. 8-11/OPS No. CC2011-017** [no monitor appointed]

Nature of the Allegation(s): Call Handling – an officer targeted the complainant’s vehicle and lacked discretion when issuing parking tickets.

OPS Preliminary Finding(s): **Unfounded** as to the call handling allegation.

CPRB Finding(s): **Unfounded** as to the call handling allegation.

APD Final Determination(s): **Unfounded** as to the call handling allegation.

**CPRB No. 10-11/OPS No. CC2011-023** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer grabbed and shoved the complainant into a glass door; *and*

2) Conduct Standards – the officer used profanity towards the complainant.

OPS Preliminary Finding(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the use of force allegation; *and*

2) **Not Sustained** as to the conduct standards allegation.

**CPRB No. 14-11/OPS No. CC2011-029** [no monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures – an officer stopped and searched the complainant because he was riding a girl’s bike; *and*  
2) Call Handling – the officer took possession of the complainant’s phone and did not list it on the property report.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the arrest authority & procedures allegation; *and*

2) **Sustained** as to the call handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the arrest authority & procedures allegation; *and*

2) **Sustained** as to the call handling allegation.

APD Final Determination(s): 1) **Not Sustained** as to the arrest authority & procedures allegation; *and*

2) **Sustained** as to the call handling allegation.

**CPRB No. 15-11/OPS No. CC2010-105** [monitor appointed]

Nature of the Allegation(s): Use of Force – an officer grabbed the complainant by the neck, dug his fingernail into the complainant’s neck, and dragged him to the front entrance.

OPS Preliminary Finding(s): **No Finding** as to the use of force allegation.

CPRB Finding(s): **No Finding** as to the use of force allegation.

APD Final Determination(s): **No Finding** as to the use of force allegation.

**CPRB No. 16-11/OPS No. CC2011-018** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer was rude and sarcastic when he issued a ticket to the complainant.

OPS Preliminary Finding(s): **Unfounded** as to the conduct standards allegation.

CPRB Finding(s): **Unfounded** as to the conduct standards allegation.

APD Final Determination(s): **Unfounded** as to the conduct standards allegation.

**CPRB No. 19-11/OPS No. CC2011-042** [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer grabbed and yanked the complainant by his bad arm using full force; *and*  
2) Property Handling – the officer withheld the complainant’s personal property.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the use of force allegation; *and*  
2) **Exonerated** as to the property handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation; *and*  
2) **Exonerated** as to the property handling allegation.

APD Final Determination(s): 1) **Not Sustained** as to the use of force allegation; *and*  
2) **Exonerated** as to the property handling allegation.

**DEFINITION OF CPRB FINDINGS**

Section 42-344A of Chapter 42, Part 33 of the Albany City Code charges the Board with, after review and deliberation of an investigation, shall, by majority vote, make one of the following findings on the case:

(1) *Sustained* – where the review discloses sufficient facts to prove the allegations made in the complaint.

(2) *Not Sustained* – where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

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

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

(5) *Ineffective Policy or Training* – where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation.

(6) *No Finding* – where, for example, the complaint failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; or where the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.

(7) *Mediation* – where the complaint is resolved by mediation.

## **GRIEVANCE FORM PROCESS**

### Background

In the second quarter of 2008, former Chief of Police James Tuffey introduced a new system to the Albany Police Department, where complainants who have a grievance with a member of the APD, but opt not to complete a CPRB complaint form, would have their contact information provided to the CPRB using grievance forms so that the CPRB can reach out to them. This process ensures that individuals would not lose out on having their complaint reviewed by the Board. The OPS agreed to implement this grievance form process as part of its standard operating procedure. Under this system, every complainant who files a grievance form with the OPS will have a full opportunity to complete a CPRB complaint form.

### Summaries and Statistics

During the first quarter of 2012, the Board received twenty (20) new grievance forms from the OPS, in addition to its two hundred and ninety-two (292) grievance forms that were received since the inception of the grievance form process in 2008. Out of the twenty (20) new grievance forms that were filed in the first quarter of 2012, two (2) citizen complaint forms were filed. Of the three hundred and twelve (312) grievance forms received by the Board since 2008, eighty-one (81) complaint forms were filed.

## **MEETINGS**

The Board met as a whole two (2) times for the conduct of business during the first quarter. Meetings were held on December 8, 2011 and January 12, 2012. Both of the two (2) meetings were held at the GWU the Center, 274 Washington Avenue, in the Teen Center Conference Room. There was a public comment period at each meeting.

The Board meets on the second Thursday of every month so as not to conflict with the monthly meetings of the County Legislature, and to encourage media and public participation at its meetings.

## **GOVERNMENT LAW CENTER**

During the first quarter of 2012, the Government Law Center engaged in the following activities as directed by the local law and pursuant to its contractual obligations with the City of Albany:

- Attended a meeting with the New York Civil Liberties Union (NYCLU) held at Albany Law School.

- Corresponded with representatives from the Albany branch the NAACP to attend that groups meeting in the second quarter of 2012.
- Drafted and forwarded correspondence to corporation counsel regarding potential breaches of confidence due to document loss brought on by natural disasters.
- Drafted correspondence to two (2) prisoners who requested information about The CPRB.
- The GLC scheduled a meeting with Chairman Smart to discuss the board's subpoena powers, this meeting is scheduled to take place in the second quarter of 2012.
- Drafted and forwarded correspondence to Complainant's whose complaints were closed due to jurisdictional defects.
- Drafted and forwarded correspondence to Chief Steven Krokoff regarding CPRB No. 23-10/OPS No. CC2010-035.
- Drafted and forwarded correspondence to Chief Steven Krokoff requesting the APD's final determinations for complaints reviewed by the Board.
- Forwarded correspondence to the Board from Chief Steven Krokoff on the APD's final determinations for complaints reviewed by the Board.
- Notified organizations, community groups, and complainants of the Board's public meeting by posting a press release in City Hall, and sending out via mail and e-mail notices and press releases.
- Drafted and forwarded correspondence to the City regarding Freedom of Information Law (FOIL) requests.
- Forwarded the updated database scorecard and the grievance form chart to the OPS and members of the Board.
- Forwarded to the Board press clippings regarding the Albany CPRB.
- Continued the development of the CPRB electronic database.

In addition, the Center performed the following administrative tasks:

- Arranged logistics for and coordinated two (2) regular monthly meetings and two (2) outreach meetings including: securing dates, times, and locations for each meeting, and providing notice to the affected parties and to the public;

- Attended two (2) regular monthly meetings
- Prepared and assembled regular monthly meeting packets for Board members, including: photocopying complaints, reports, and accompanying documents for review;
- Prepared a summary of new complaints filed with the Board for presentation by the Chair of the Committee on Complaint Review at each monthly meeting;
- Prepared findings forms for the recording of Board determinations by members of the Committee on Complaint Review at each monthly meeting;
- Reported all activities related to Board business at each monthly meeting;
- Recorded and transcribed the minutes of each monthly meeting;
- Notified affected parties of Board findings, recommendations, and requests following each monthly meeting;
- Conducted a monthly accounting and inventory of complaints filed with the Board, including a summary of active, suspended, and closed complaints, recommendations, and pending requests submitted to the Chief of Police, the Office of Professional Standards, and the Corporation Counsel's Office;
- Reported monthly complaint accounting and inventory to the Board at each of its first quarter meetings;
- Assisted with typing and forwarding the Board's requests and recommendations to the Chief of Police, the Office of Professional Standards, and/or the Corporation Counsel's Office;
- Received and logged complaints and grievance;
- Opened and closed complaint files;
- Forwarded complainant related correspondence to Board members;
- Updated and maintained the Board's website to include reports, new meeting minutes, new Board members and revised meeting schedule;
- Maintained regular communications with Board members, the Police Department, and the Corporation Counsel's Office; *and*
- Answered inquiries from the community and the media about the Board and the complaint review process.

## CONCLUSION

The Board had a steady first quarter, which included: The Board meeting as a whole two (2) times; two (2) committee/task force meetings; attended two (2) community meetings, including a meeting by The NYCLU; and reviewing twelve (12) complaints and rendering findings for allegation(s) contained in twelve (12) complaints. The Board continued to work collaboratively with the APD.

Respectfully submitted,

Government Law Center of Albany Law School  
Approved by and submitted on behalf of the  
City of Albany Citizens' Police Review Board

Dated: February 1, 2012