

City of Albany

CITIZENS' POLICE REVIEW BOARD

First Quarterly Report February 1, 2013

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, 2013

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 2013.

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 2013:

Marilyn Hammond	Mickey Bradley	Eugene Sarfoh
Andrew Phelan, Jr	David Rozen	Reverend Edward Smart
Anthony Potenza	Maritza Martinez	Akosua Yeboah

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

Chair	Reverend Edward Smart
Vice-Chair	Anthony Potenza
Secretary	Andrew Phelan, Jr. <i>*ended in January 2013</i> Akosua Yeboah <i>*began in January 2013</i>

Nominations and Elections for Board Officers

At the Board's January 10, 2013 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 Akosua Yeboah was nominated for the position of Secretary. The slate will be presented, voted on, and reported in the second quarter of 2013.

Nominations and Elections for Committee/Task Force Chairs

At the Board's January 10, 2013 meeting; Eugene Sarfoh was appointed chair of task force on monitors, James Bradley appointed to chair of mediation committee, and David Rozen was appointed chair of police liaison committee. All other committee chairs remained the same as in the fourth quarter of 2012.

Vacancies and Re-Appointments

During the first quarter of 2013, the Albany Common Council's Public Safety Committee appointed David Rozen to fill the remainder of the term left by former board member's Patrick Toye.

The following board members terms expired in the fourth quarter of 2012; Chairman Edward B. Smart, Maritza Martinez, Akosua Yeboah, and Andrew Phelan. Andrew Phelan completed two (2) consecutive terms and therefore was not eligible for re-appointment at this time. The remaining three (3) board members are eligible for re-appointment.

Committees and Task Force

The following committees and task force were operational in the first quarter of 2013:

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

<i>Complaint Review</i>	Akosua Yeboah (Chair) Marilyn Hammond David Rozen Eugene Sarfoh Reverend Edward Smart Maritza Martinez
<i>Mediation</i>	James Bradley (Chair) Anthony Potenza
<i>Police Department Liaison- Policy Review/ Recommendations</i>	David Rozen (Chair) Anthony Potenza Reverend Edward Smart (<i>ex-officio</i>)
<i>Public Official Liaison</i>	Reverend Edward Smart (Chair) Anthony Potenza Akosua Yeboah
<i>Task Force on Monitors</i>	Eugene Sarfoh (Chair) Marilyn Hammond Reverend Edward Smart (<i>ex-officio</i>)

BY-LAWS AND RULES/MEDIATION

The mediation protocol is still being reviewed by the APD's Police Union. The Board's counsel Patrick Jordan completed his review of the documents and forms required for the mediation program and forwarded those documents to the Police Union's counsel for review. The Union's counsel is still awaiting comments from its members.

COMMUNITY OUTREACH

The Board is in the process of creating a Facebook page. This Facebook page will be created in an effort to make online community outreach more active. The Board is attempting to create a community outreach program based on the NACOLE conference model.

The committee is currently in the process of creating brochures in both Spanish and English. Three out of four planned brochures have been completed this quarter. One of the Spanish language brochures has been complete and one remains to be translated.

POLICE DEPARTMENT LIAISON

The committee informed the OPS and Chief Krokoff that the Board's copy of the SOP is outdated, so they requested an updated copy.

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the five (5) 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 2013.

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

November 2012	James Bradley, Maritza Martinez, Andrew Phelan, Anthony Potenza, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.
December 2012	James Bradley, Maritza Martinez, Tony Potenza, David Rozen, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.
January 2013*	Marilyn Hammond, Eugene Sarfoh, David Rozen, Chairman Edward Smart, and Akosua Yeboah.

*The Board did not meet in December 2012 and therefore did not assign committee assignments for January 2013. Those members listed for complaint review in January 2013 are members who reviewed complaints during the January 2013 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 2013, the Board received ten (10) new complaints in addition to its twenty-seven (27) active complaints and eighteen (18) suspended complaints. Monitors were appointed to investigate seven (7) of the ten (10) new complaints. Of the thirty-seven (37) complaints before the Board, the Board presented thirteen (13) complaints for review and rendered findings for the allegation(s) contained in eleven (11) complaints. These eleven (11) complaints were closed and contained a total of twenty-three (23) allegations of misconduct. As to the eleven (11) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in ten (10) cases.

Board action was taken on one (1) complaint, which was filed in the first quarter of 2013, 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 2013, no complaints were reviewed and sent back to the OPS for a further investigation.

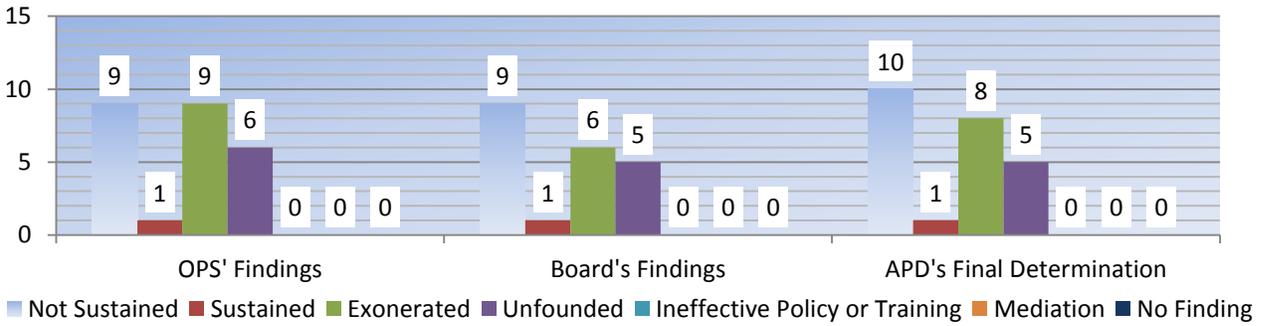


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the First Quarter of 2013.

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. 7-12/OPS No. CC2012-015 [monitor appointed]

- Nature of the Allegation(s):
- 1) Excessive Force –an officer grabbed her by the back of her head and slammed her face towards the ground;
 - 2) Use Of Force- officer ignored the complaint’s plea that handcuffs were causing her pain; *and*
 - 3) Use of Profanity- the officer used profanity towards the complainant.

- OPS Preliminary Finding(s):
- 1) **Unfounded** as to the Excessive Force allegation;
 - 2) **Exonerated** as to the Use of Force allegation; *and*
 - 3) **Sustained** as to the Use of Profanity allegation.

- CPRB Finding(s):
- 1) **Not Sustained** as to the excessive force allegation;
 - 2) **Not Sustained** as to the use of force allegation; *and*
 - 3) **Sustained** as to the use of profanity allegation.

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

3) **Sustained** as to the use of profanity allegation.

CPRB No. 8-12/OPS No. CC2012-014 [monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – detectives obtained a phony and forged warrant to search the complainant’s residence;

2) Conduct Standards – detectives trashed and demolished the complainant’s apartment; *and*

3) Call Handling – detectives searched the complainant’s car without probable cause.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first conduct standards allegation;

2) **Not Sustained** as to the second conduct standards allegation;
and

3) **Exonerated** as to the call handling allegation.

CPRB Finding(s): 1) **Unfounded** as to the first conduct standards allegation;

2) **Not Sustained** as to the second conduct standards allegation;
and

3) **Exonerated** as to the call handling allegation.

APD Final Determination(s): 1) **Unfounded** as to the first conduct standards allegation;

2) **Not Sustained** as to the second conduct standards allegation;
and

3) **Exonerated** as to the call handling allegation.

CPRB No. 18-12/OPS No. CC2012-038 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – officer stopped the complainant as the result of a felony vehicle stop, handcuffed her and her daughter, and told the complainant to shut up.

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

CPRB Finding(s): The Board tabled the complaint for a future meeting.

CPRB No. 25-12/OPS No. CC2012-052 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer was unprofessional when he entered the complainant’s home and questioned the complainant’s wife, nephew, and daughter.

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. 27-12/OPS No. CC2012-056 [monitor appointed]

Nature of the Allegation(s):

- 1) Use of Force – police officers tased the complainant with at least three (3) Tasers;
- 2) Use of Force – an officer pushed the complainant in the face to the ground;
- 3) Use of Force – an officer tased the complainant again after he was handcuffed and the officer kicked him in the back and ribs; *and*
- 4) Conduct Standards – an officer used profanity towards the complainant.

OPS Preliminary Finding(s):

- 1) **Exonerated** as to the first use of force allegation;
- 2) **Not Sustained** as to the second use of force allegation;
- 3) **Unfounded** as to the third use of force allegation; *and*
- 4) **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the first use of force allegation;
- 2) **Not Sustained** as to the second use of force allegation;
- 3) **Unfounded** as to the third use of force allegation; *and*
- 4) **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s):

- 1) **Exonerated** as to the first use of force allegation;
- 2) **Not Sustained** as to the second use of force allegation;

3) **Unfounded** as to the third use of force allegation; *and*

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

CPRB No. 30-12/OPS No. CC2012-071 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer blocked the complainant’s path, was nasty towards her, and threw her against a door;

2) Property Handling – the officer smashed the complainant’s wallet on the floor; *and*

3) Conduct Standards – the officer made an inappropriate comment towards the complainant’s ex-husband.

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

2) **Not Sustained** as to the property handling allegation; *and*

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

CPRB Finding(s): The Board tabled the complaint for a future meeting.

CPRB No. 31-12/OPS No. CC2012-073 [no monitor appointed]

Nature of the Allegation(s): Arrest Authority & Procedures – an officer failed to talk to the complainant or witness prior to placing him under arrest.

OPS Preliminary Finding(s): **Unfounded** as to the arrest authority & procedures allegation.

CPRB Finding(s): **Unfounded** as to the arrest authority & procedures allegation.

APD Final Determination(s): **Unfounded** as to the arrest authority & procedures allegation.

CPRB No. 33-12/OPS No. CC2012-080 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures – the officer did not have probable cause to search the complainant; *and*

2) Use of Force – the officer pepper sprayed the complainant, handcuffed her tightly, and beat her.

OPS Preliminary Finding(s): 1) **Exonerated** as to the use of arrest authority & procedures allegation; *and*

2) **Unfounded** as to the use of force allegation.

CPRB Finding(s): 1) **Exonerated** as to the use of arrest authority & procedures allegation; *and*

2) **Unfounded** as to the use of force allegation.

APD Final Determination(s): 1) **Exonerated** as to the use of arrest authority & procedures allegation; *and*

2) **Unfounded** as to the use of force allegation.

CPRB No. 34-12/OPS No. CC2012-082 [monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – a detective violated the complainant’s civil rights;

2) Call Handling – the detective failed to immediately identify himself; *and*

3) Conduct Standards – an unidentified officer unlatched his safety on his weapon holster.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first conduct standards allegation;

2) **Not Sustained** as to the call handling allegation; *and*

3) **Exonerated** as to the second conduct standards allegation.

CPRB Finding(s): 1) **Exonerated** as to the first conduct standards allegation;

2) **Not Sustained** as to the call handling allegation; *and*

3) **Exonerated** as to the second conduct standards allegation.

APD Final Determination(s): 1) **Exonerated** as to the first conduct standards allegation;

2) **Not Sustained** as to the call handling allegation; *and*

3) **Exonerated** as to the second conduct standards allegation.

CPRB No. 35-12/OPS No. CC2012-081 [monitor appointed]

Nature of the Allegation(s): Use of Force – police officers pulled the complainant out of his car window, tased him, and punched him in the face.

OPS Preliminary Finding(s): **Exonerated** as to the use of force allegation.

CPRB Finding(s): **Exonerated** as to the use of force allegation.

APD Final Determination(s): **Exonerated** as to the use of force allegation.

CPRB No. 37-12/OPS No. CC2012-075 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer was rude to the complainant and an officer at the Center Station 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. 38-12/OPS No. CC2012-079 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – a sergeant was rude, disrespectful, used profanity and refused to inform the complainant why he was pulled over.

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. 46-12/OPS No. CC2012-102 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer pulled the complainant over in a racially motivated stop.

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.

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 2013, the Board received fourteen (14) new grievance forms from the OPS, in addition to its three hundred and eighty-seven (387) grievance forms that were received since the inception of the grievance form process in 2008. Out of the fourteen (14) new grievance forms that were filed in the first quarter of 2013, seven (7) citizen complaint forms were filed. Of the four hundred and two (402) grievance forms received by the Board since 2008, one hundred and thirteen (113) 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 November 1, 2012 and January 10, 2013. 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 2013, 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:

- Conducted research into outreach utilizing social media platforms.
- Drafted and forwarded correspondence to complainant's whose complaints were closed due to jurisdictional defects.
- 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 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 continued to be active in the first quarter. The Board met as a whole two (2) times and reviewed thirteen (13) complaints and rendered findings for allegation(s) contained in eleven (11) complaints. The Board continued to work collaboratively with the APD on the mediation program.

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, 2013