

City of Albany

CITIZENS' POLICE REVIEW BOARD

First Quarterly Report November 1, 2013 - January 31, 2014

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

November 1, 2013 – January 31, 2014

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 2014.

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 2014:

Marilyn Hammond	Mickey Bradley	Eugene Sarfoh
William McCarthy	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 <i>*ended in January 2014</i>
	David Rozen <i>*began in January 2014</i>
Secretary	Akosua Yeboah

Nominations and Elections for Board Officers

At the Board's January 16, 2014 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, David Rozen was nominated for the Vice-Chair position, and Akosua Yeboah was nominated for the position of Secretary. The slate was presented, voted on, and the motion to elect Edward Smart as Chairman, David Rozen as Vice-Chairman, and Akosua Yeboah as Secretary.

Nominations and Elections for Committee/Task Force Chairs

At the Board's January 16, 2014 meeting, the Board agreed to keep all committee chairs the same as in the previous quarter.

Vacancies and Reappointments

During the first quarter of 2014, David Rozen was reappointed by the Albany Common Council's Public Safety Committee to a term expiring on October 26, 2016.

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. Nine (9) complaints were presented and reviewed in the first quarter of 2014.

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

December 2013 *	James Bradley, Maritza Martinez, William McCarthy, David Rozen, Chairman Edward Smart, and Akosua Yeboah.
January 2014	James Bradley, Maritza Martinez, William McCarthy, Tony Potenza, David Rozen, Chairman Edward Smart, and Akosua Yeboah.

*The Board did not meet in November 2013 and therefore did not assign complaints for December 2013. Those members listed for complaint review in December 2013 are members who reviewed complaints during the 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 2014, the Board received seven (7) new complaints in addition to its fifty-three (53) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate two (2) of the seven (7) new complaints. Of the fifty-three (53) complaints before the Board, the Board presented ten (10) complaints for review and rendered findings for the allegation(s) contained in nine (9) complaints. These nine (9) complaints were closed and contained a total of nineteen (19) allegations of misconduct. As to the nine (9) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in nine (9) cases.

Board action was taken on four (4) complaints, which were filed in the first quarter of 2014. The action taken on two (2) of those complaints was due to both complaints being filed after the timeframe allotted for filing complaints. The Board voted unanimously not to accept and review these two (2) complaints. The action taken on the other two (2) complaints were letters sent to the chief of police regarding proposing changes to the SOP on training. In the first quarter of 2014, no complaints were reviewed and sent back to the OPS for a further investigation.

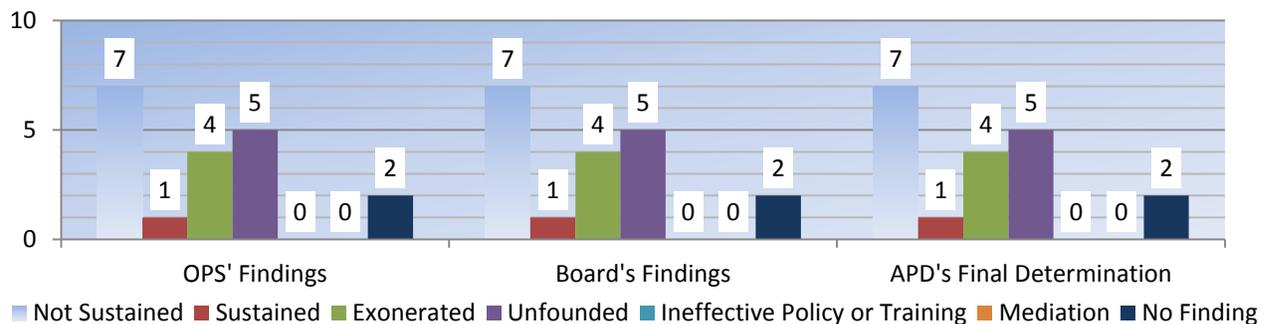


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the First Quarter of 2014.

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. 35-09/OPS No. CC2009-064 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an off-duty officer assaulted the complainant; *and*

2) Off-Duty Conduct Standards – the off-duty officer put the complainant’s friend on a list that banned her from entering area bars.

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

2) **Unfounded** as to the off-duty conduct standards allegation.

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

2) **Unfounded** as to the off-duty conduct standards allegation.

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

2) **Unfounded** as to the off-duty conduct standards allegation.

CPRB No. 45-12/OPS No. CC2012-100 [no monitor appointed]

Nature of the Allegation(s): Use of force – four officers repeatedly struck the complainant’s son in the head.

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

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

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

CPRB No. 48-12/OPS No. CC2012-121 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – detectives forcefully shoved and pushed the complainant into a corner;

2) Conduct Standards – detectives took the complainant’s son and his girlfriend out of their room undressed and searched the room;

3) Arrest Authority and Procedures – the detective gave the complainant a search warrant that was not signed or dated;

4) Conduct Standards – the detective looked at or laughed at a picture of President Obama; *and*

5) Conduct Standards – the complainant’s son and several other African-American youths have been on-going targets for the police.

- OPS Preliminary Finding(s):
- 1) **Not Sustained** as to the use of force allegation;
 - 2) **No Finding** as to the first conduct standards allegation;
 - 3) **Unfounded** as to the arrest authorities and procedures allegation;
 - 4) **No Finding** as to the second conduct standards allegation; *and*
 - 5) **No Finding** as to the third conduct standards allegation.

- CPRB Finding(s):
- 1) **Not Sustained** as to the use of force allegation;
 - 2) **No Finding** as to the first conduct standards allegation;
 - 3) **Unfounded** as to the arrest authorities and procedures allegation;
 - 4) **No Finding** as to the second conduct standards allegation; *and*
 - 5) **No Finding** as to the third conduct standards allegation.

- APD Final Determination(s):
- 1) **Not Sustained** as to the use of force allegation;
 - 2) **No Finding** as to the first conduct standards allegation;
 - 3) **Unfounded** as to the arrest authorities and procedures allegation;
 - 4) **No Finding** as to the second conduct standards allegation; *and*
 - 5) **No Finding** as to the third conduct standards allegation.

CPRB No. 51-12/OPS No. CC2012-123 [monitor appointed]

- Nature of the Allegation(s):
- 1) Conduct Standards – officers detained the complainant and “got mouthy” with him; *and*
 - 2) Use of Force – the officer slammed the complainant to the ground causing an injury to the complainant’s face.

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

2) **Not Sustained** as to the use of force allegation.

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

2) **Not Sustained** as to the use of force allegation.

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

2) **Not Sustained** as to the use of force allegation.

CPRB No. 54-12/OPS No. CC2012-132 [monitor appointed]

Nature of the Allegation(s): Call Handling – an officer stopped the complainant, put a gun to the complainant’s head, and used profanity.

OPS Preliminary Finding(s): **No Finding** as to the call handling allegation.

CPRB Finding(s): **No Finding** as to the call handling allegation.

APD Final Determination(s): **No Finding** as to the call handling allegation.

CPRB No. 4-13/OPS No. CC2013-006 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling– officers forced their way into the complainant’s home;

2) Use of Force – an officer restrained, punched, and choked the complainant’s boyfriend; *and*

3) Conduct Standards – the detective ignored the complaint’s complaint that the handcuffs were too tight.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the call handling allegation;

2) **Not Sustained** as to the use of force allegation; *and*

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

CPRB Finding(s): 1) **Not Sustained** as to the call handling allegation;

2) **Not Sustained** as to the use of force allegation; *and*

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

APD Final Determination(s): 1) **Not Sustained** as to the call handling allegation;

2) **Not Sustained** as to the use of force allegation; *and*

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

CPRB No. 06-13/OPS No. CC2013-011 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority and Procedures – an officer searched the complainant’s pockets; *and*

2) Conduct Standards – the detective ignored the complainant’s complaint that the handcuffs were too tight.

OPS Preliminary Finding(s): 1) **Sustained** as to the arrest authority and procedures allegation; *and*

2) **Exonerated** as to the conduct standards allegation.

CPRB Finding(s): 1) **Sustained** as to the arrest authority and procedures allegation; *and*

2) **Exonerated** as to the conduct standards allegation.

APD Final Determination(s): 1) **Sustained** as to the arrest authority and procedures allegation; *and*

2) **Exonerated** as to the conduct standards allegation.

CPRB No. 22-13/OPS No. CC2013-060 [no monitor appointed]

Nature of the Allegation(s): Call Handling – an officer was talking to a woman that the complainant knew.

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. 30-13/OPS No. CC2013-078 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures – an officer pulled the complainant over for no reason; *and*

2) Conduct Standards – the officer pointed to some residents and blamed them for being behind the complainant’s arrest.

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

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

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

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

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

2) **Not Sustained** 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 2014, the Board received twenty (20) new grievance forms from the OPS, in addition to its four hundred and eighty-six (486) 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 2014, three (3) citizen complaint forms were filed. Of the five hundred and six (406) grievance forms received by the Board since 2008, one hundred and thirty-nine (139) complaint forms were filed.

MEETINGS

The Board met as a whole two (2) times for the conduct of business during the first quarter of 2014. Meetings were held on December 12, 2013 and January 16, 2014. 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.

CONCLUSION

The Board had a steady first quarter, which included: The Board meeting as a whole two (2) times and reviewing nine (9) complaints and rendering findings for allegation(s) contained in all nine (9) 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

Approved by the CPRB: September 11, 2014