

City of Albany

CITIZENS' POLICE REVIEW BOARD

Second Quarterly Report May 1, 2013

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



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

May 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 second 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 second quarter of 2013:

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

During the second quarter, the Board’s elected officers were:

Chair	Reverend Edward Smart
Vice-Chair	Anthony Potenza
Secretary	Akosua Yeboah

Vacancies and Re-Appointments

During the second quarter of 2013, the Board awaits letters of reappointment for three (3) Board members whose terms expired last quarter.

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. Five (5) complaints were presented and reviewed in the second quarter of 2013.

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 second quarter of 2013, the Board received seven (7) new complaints in addition to its thirty-three (33) active complaints and twelve (12) suspended complaints. Monitors were appointed to investigate four (4) of the seven (7) new complaints. Of the forty (40) complaints before the Board, the Board presented five (5) complaints for review and rendered findings for the allegation(s) contained in all five (5) complaints. These five (5) complaints were closed and contained a total of thirteen (13) allegations of misconduct. As to the five (5) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all five (5) cases.

In the second quarter of 2013, no complaints were reviewed and sent back to the OPS for a further investigation.

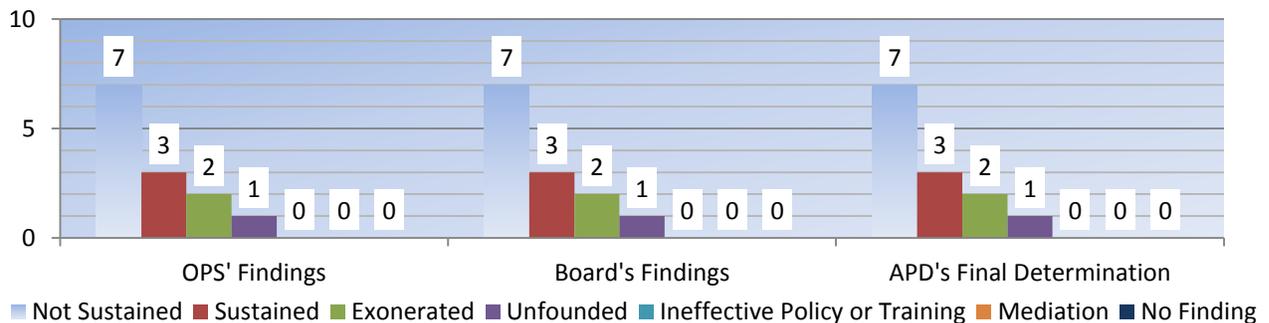


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the Second Quarter of 2013.

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. 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 comments 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): 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.

APD Final Determination(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 No. 41-12/OPS No. CC2012-093 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer began pushing the complainant and asked him where the BB gun was;

2) Use of Force – an officer made a fist and pushed the complainant hard in the chest; *and*

3) Conduct standards – an officer used profanity towards the complainant.

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

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

APD Final Determination(s): 1) **Unfounded** as to the first use of force allegation;
2) **Not Sustained** as to the second use of force allegation; *and*
3) **Not Sustained** as to the conduct standards allegation.

CPRB No. 42-12/OPS No. CC2012-095 [no monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority and Procedures – detectives searched the complainant’s apartment without a warrant or permission;
2) Evidence and Property Handling –an officer made a fist and pushed the complainant hard in the chest; *and*
3) Evidence and Property Handling – the complainant was never given a property receipt.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation;
2) **Exonerated** as to the first evidence and property handling allegation; *and*
3) **Sustained** as to the second evidence and property handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation;
2) **Exonerated** as to the first evidence and property handling allegation; *and*

3) **Sustained** as to the second evidence and property handling allegation.

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

2) **Exonerated** as to the first evidence and property handling allegation; *and*

3) **Sustained** as to the second evidence and property handling allegation.

CPRB No. 43-12/OPS No. CC2012-098 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – the complainant was subjected to a felony traffic stop and detained for 30 minutes; *and*

2) Conduct Standards – a detective told the complainant that no formal complaint will be filed, but a supervisor will handle it.

OPS Preliminary Finding(s): 1) **Sustained** as to the use of call handling allegation; *and*

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

CPRB Finding(s): 1) **Sustained** as to the use of call handling allegation; *and*

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

APD Final Determination(s): 1) **Sustained** as to the use of call handling allegation; *and*

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

CPRB No. 52-12/OPS No. CC2012-125 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer grabbed the complainant by the shirt and dragged him down the stairs; *and*

2) Conduct Standards- an officer used profanity towards the complainant.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the use of force allegation;

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

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation;

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

APD Final Determination(s): 1) **Not Sustained** as to the use of force allegation;

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 second quarter of 2013, the Board received seventeen (17) new grievance forms from the OPS, in addition to its four hundred and four hundred and two (402) grievance forms that were received since the inception of the grievance form process in 2008. Out of the seventeen (17) new grievance forms that were filed in the second quarter of 2013, four (4) citizen complaint forms were filed. Of the four hundred and nineteen (419) grievance forms received by the Board since 2008, one hundred and seventeen (117) complaint forms were filed.

MEETINGS

The Board met as a whole one (1) times for the conduct of business during the second quarter. Meetings were held on March 14, 2013. The meeting was held at the GWU the Center, 274 Washington Avenue, in the Teen Center Conference Room. There was a public comment period at the 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 second quarter, which included: the Board met as a whole one (1) time; and reviewing five (5) complaints and rendering findings for allegation(s) contained in all five (5) complaints. The Board continued to work collaboratively with the APD on its initiatives.

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: May 1, 2013