

# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **Second Quarterly Report May 1, 2014**

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

February 1, 2014 – April 30, 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 second 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 second quarter of 2014:

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	David Rozen
Secretary	Akosua Yeboah

### *Vacancies and Reappointments*

During the second quarter of 2014, Board member William McCarthy tendered his resignation to the GLC. The GLC notified City of Albany Mayor Kathy Sheehan and Albany Common Council President Carolyn McLaughlin to inform them of the new mayoral vacancy on the Board. Also in this quarter, the Board continues to await letters of reappointment for two (2) Board members appointed by the common council. These members' terms expired in the last quarter. The Board also awaits a common council appointment for the one member who will not be able to be reappointed due to term limit restrictions.

### **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. Eleven (11) complaints were presented and reviewed in the second quarter of 2014.

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

February 2014	Mickey Bradley, David Rozen, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah
March 2014 *	Mickey Bradley, Anthony Potenza, David Rozen, Chairman Edward Smart, and Akosua Yeboah
April 2014:	Anthony Potenza, Eugene Sarfoh, and Chairman Edward Smart

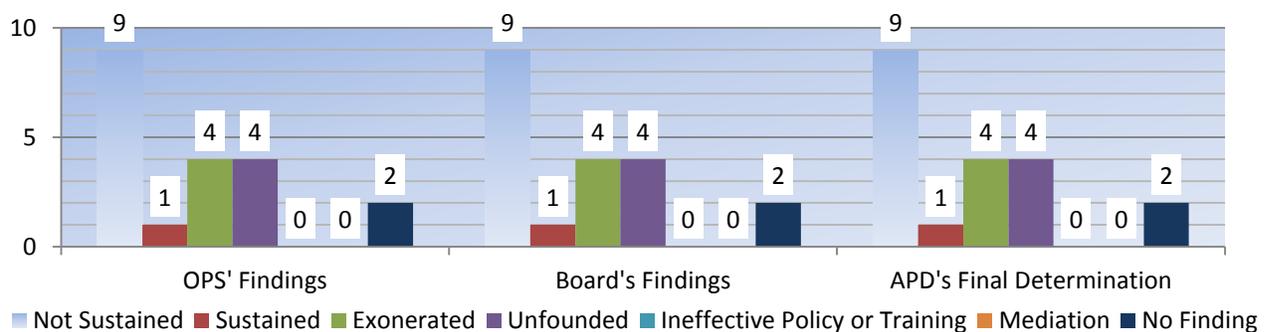
\*The Board did not meet in February 2014 and therefore did not assign complaints for March 2014. Those members listed for complaint review in March 2014 are members who reviewed complaints during the meeting

### **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 second quarter of 2014, the Board received twelve (12) new complaints in addition to its forty-nine (49) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate three (3) of the twelve (12) new complaints. Of the forty-nine (49) complaints before the Board, the Board presented eleven (11) complaints for review and rendered findings for the allegation(s) contained in all eleven (11) complaints. These eleven (11) complaints were closed and contained a total of twenty (20) 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 all eleven (11) cases.

In the second quarter of 2014, Board action was taken on one (1) complaint. The action taken was the Board voting unanimously not to accept and review CPRB No. 3-14/ OPS No. CC2014-015 because the complaint was filed six (6) months after the date of the alleged incident.



**Figure 1:** Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the Second 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. 3-09/OPS No. CC2009-003** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer used profanity and was disrespectful to the complainant.

OPS Preliminary Finding(s): **Sustained** as to the conduct standards allegation;

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

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

**CPRB No. 23-10/OPS No. CC2010-003** [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – officers tackled the complainant; *and*

2) Call Handling– the officer failed to file a report.

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

2) **Not Sustained** as to the second call handling allegation.

CPRB Action(s):

The Board initially reviewed this complaint on October 13, 2011 where the Board failing to reach a finding by a majority vote. At that meeting, the complaint was tabled and a request for further investigation was filed. The OPS conducted a further investigation and submitted its report to the Board. At its March 13, 2014 meeting, the Board reviewed the complaint and rendered its findings for the two (2) allegations.

CPRB Finding(s):

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

2) **Not Sustained** as to the second call handling allegation.

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

2) **Not Sustained** as to the second call handling allegation.

**CPRB No. 46-10/OPS No. CC2010-113** [no monitor appointed]

Nature of the Allegation(s): Use of Force – an officer grabbed the complainant by the arms and removed her from the courthouse.

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. 48-10/OPS No. CC2010-115** [no monitor appointed]

Nature of the Allegation(s): Use of Force – an officer grabbed the complainant by the arm and twisted it before removing her from the courthouse.

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. 56-12/OPS No. CC2012-002** [no monitor appointed]

Nature of the Allegation(s): Arrest Authority and Procedures – an officer picked up a pipe off the ground and arrested the complainant for possessing the pipe.

OPS Preliminary Finding(s): **No Finding** as to the arrest authority and procedures allegation.

CPRB Finding(s): **No Finding** as to the arrest authority and procedures allegation.

APD Final Determination(s): **No Finding** as to the arrest authority and procedures allegation.

**CPRB No. 3-13/OPS No. CC2013-003** [monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – an officer was rude and used profanity towards the complainant;  
2) Use of Force – the officer squeezed the complainant’s arm and pulled her up; *and*  
3) Use of Force – two (2) officers tackled the complainant and used profanity towards her.

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

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

CPRB Action(s): At the September 12, 2013 meeting, this complaint was reviewed and closed. The Board also agreed that this case should be referred to an informal mediation. At the March 13, 2014 meeting, it was reported that the Board was still awaiting a response from the Chief of Police and the OPS regarding the status of the scheduling an informal mediation between the officer and complainant.

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

**CPRB No. 7-13/OPS No. CC2013-015** [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling – officers entered the complaint’s apartment without permission; *and*

2) Use of Force – an officer was rude to the complainant.

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

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

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

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

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

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

**CPRB No. 9-13/OPS No. CC2013-021** [no monitor appointed]

Nature of the Allegation(s): Arrest Authority and Procedures – an officer stopped the complainant, searched him, questioned him, and the arrested him.

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

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

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

**CPRB No. 14-13/OPS No. CC2013-042** [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – an officer came to the complainant’s home under the pretense of loud music and made everyone leave the residence because he smelled marijuana; *and*

2) Conduct Standards – the officer has a vendetta against the complainant’s boyfriend and he followed her while she was driving.

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

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

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

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

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

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

**CPRB No. 15-13/OPS No. CC2013-044** [monitor appointed]

Nature of the Allegation(s): Use of Force – officers chased the complainant’s son, kicked him in the back of the head after getting him on the ground, and caused him injury to his two (2) front teeth.

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. 18-13/OPS No. CC2013-052** [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer threatened the complainant and bumped into the complainant’s arm when he left.

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. 26-13/OPS No. CC2013** [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority and Procedures – officers illegally searched and ripped apart the complainant’s car;  
2) Conduct Standards – an officer used profanity and threatened to tase the complainant;  
3) Call Handling – an officer asked the complainant several questions which violated him; *and*  
4) Conduct Standards – an officer stopped the complainant by profiling him.

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

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

3) **Exonerated** as to the call handling allegation; *and*

4) **Unfounded** as to the second conduct standards allegation.

CPRB Finding(s):

1) **Exonerated** as to the arrest authority and procedures allegation;

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

3) **Exonerated** as to the call handling allegation; *and*

4) **Unfounded** as to the second conduct standards allegation.

CPRB Action(s):

In addition to the Board's finding, the Board sent a letter to Chief Krokoff asking that an investigation be done into the issue of utilization of the vehicle mounted DVR cameras.

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

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

3) **Exonerated** as to the call handling allegation; *and*

4) **Unfounded** as to the second 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 2014, the Board received twenty (20) new grievance forms from the OPS, in addition to its five hundred and four (504) 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 2014, five (5) citizen complaint forms were filed. Of the five hundred and twenty four (524) grievance forms received by the Board since 2008, one hundred and forty four (144) complaint forms were filed.

## **MEETINGS**

The Board met as a whole two (2) times for the conduct of business during the second quarter. Meetings were held on March 13, 2014 and April 10, 2014. The meetings were 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 meeting as a whole two (2) times and reviewing and rendering findings for allegation(s) contained in eleven (11) 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