

City of Albany

CITIZENS' POLICE REVIEW BOARD

Third Quarterly Report August 1, 2012

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



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

August 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 Third 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 Third quarter of 2012:

Mickey Bradley	Andrew Phelan, Jr	Rev. Edward Smart
Marilyn Hammond	Anthony Potenza	Patrick Toye *
Maritza Martinez	Eugene Sarfoh	Akosua Yeboah

* until July 1st, 2012

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

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

Resignations

In May of 2012, Common Council appointee member Patrick Toye announced that he will be stepping down from his position on the Board as of July 1st 2012. Mr. Toye was moving away from Albany, and residency is a requirement for service on the board.

Committees and Task Force

The following committees and task force were operational in the third 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>) Maritza Martinez
<i>Complaint Review</i>	Andrew Phelan, Jr. (Chair) Mickey Bradley Marilyn Hammond Maritza Martinez Anthony Potenza Eugene Sarfoh Reverend Edward Smart Patrick Toye Akosua Yeboah
<i>Mediation</i>	Reverend Edward Smart (Chair) Anthony Potenza Akosua Yeboah
<i>Police Department Liaison- Policy Review/ Recommendations</i>	Andrew Phelan, Jr. (Chair) Anthony Potenza Reverend Edward Smart (<i>ex-officio</i>)

Public Official Liaison Reverend Edward Smart (Chair)
Andrew Phelan, Jr.
Anthony Potenza
Akosua Yeboah

Task Force on Monitors Akosua Yeboah (Chair)
Marilyn Hammond
Reverend Edward Smart (*ex-officio*)

MEDIATION

During the third quarter, a proposed resolution on mediation was agreed to by both the APD and the police union. The resolution is pending final approval from the Board's counsel.

COMMUNITY OUTREACH

Committee Chair Akosua Yeboah attended a meeting with the local chapter of the NAACP to update them on the Board's initiatives.

The committee translated and approved Spanish versions of the CPRB brochure. It is working on translating additional brochures. The committee met once in this quarter to discuss the potential for the Board to use social media as an outreach tool. The committee also discussed the potential to attend the Albany Latin Fest and American Family Day was discussed as potential avenues for community outreach.

PUBLIC OFFICIAL LIAISON

The committee met with the Common Council's Public Safety Committee and a meeting with the Deputy Mayor was held in this quarter to update them on the Board's initiatives.

TASK FORCE ON MONITORS

The Task Force met to discuss the monitor's policy and protocol was discussed. As a result of this meeting, the Board reiterated that monitors shall be assigned to complaints that have allegations of use of force and civil rights violations.

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. Seventeen (17) complaints were presented and reviewed in the third quarter of 2012.

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

June 2012	Mickey Bradley, Marilyn Hammond, Anthony Phelan Jr., Anthony Potenza, Eugene Sarfoh, and Chairman Edward Smart.
July 2012	Marilyn Hammond, Maritza Martinez, Anthony Phelan Jr., Anthony Potenza, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.

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 third quarter of 2012, the Board received seventeen (17) new complaints in addition to its twenty-five (25) active complaints and sixteen (16) suspended complaints. Monitors were appointed to investigate nine (9) of the seventeen (17) new complaints. Of the forty-one (41) complaints before the Board, the Board presented seventeen (17) complaints for review and rendered findings for the allegation(s) contained in thirteen (13) complaints. These thirteen (13) complaints were closed and contained a total of nineteen (19) allegations of misconduct. As to the thirteen (13) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in twelve (12) cases.

Four (4) complainants were closed without review due to jurisdictional defects. These complaints were made against entities where the board does not have review power over. Some of these complaints were filed on behalf of a third party and as such the complaint did not have standing to file the complaint. These complaints were CPRB No. 22-12/OPS No. CC2012-044; CPRB No. 23-12/OPS No. CC2012-053; CPRB No. 22-11/OPS No. CC2011-055; and CPRB No. 4-12/OPS No. CC2012-017.

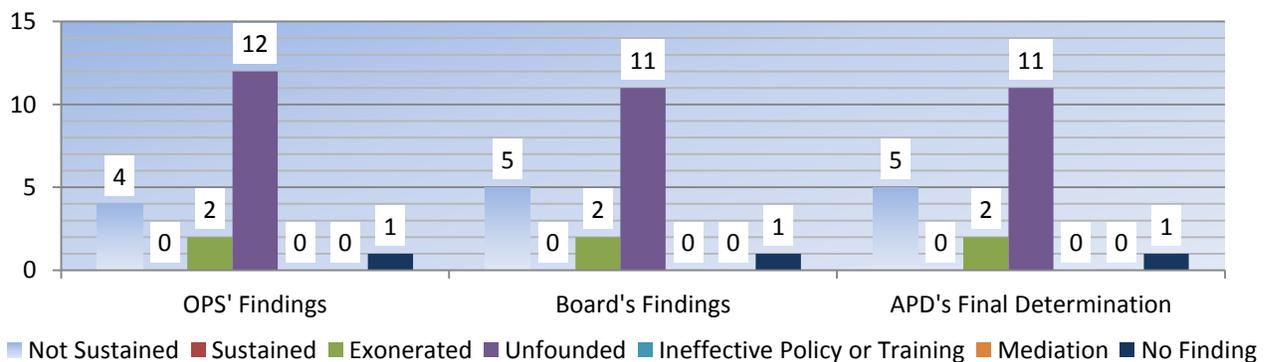


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the Third Quarter of 2012.

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. 17-11/OPS No. CC2011-043 [monitor appointed]

Nature of the Allegation(s): Call Handling – an officer singled out the complainant because she was a white woman in a nice car with a black man.

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. 21-11/OPS No. CC2011-040 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – officers did not arrest the other person and failed to take a report;

2) Call Handling– the officer was racially biased; *and*

3) Conduct Standards – the officer was unprofessional.

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

2) **Unfounded** as to the second call handling allegation; *and*

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

CPRB Action(s): The case was reviewed by a monitor and placed on the CPRB's June 12, 2012 meeting agenda where it was reviewed, deliberated, voted on, and closed accordingly.

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

2) **Unfounded** 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 call handling allegation;

2) **Unfounded** as to the second call handling allegation; *and*

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

CPRB No. 22-11/OPS No. CC2011-055 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – officers unlawfully arrested the complainant’s son and failed to arrest the perpetrator.

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

CPRB Action(s): At the March 8th 2012 meeting the Board moved to table this complaint and to conduct an investigation into the age of the alleged victim.

The CPRB received correspondence from the APD addressing the CPRB’s questions. The case was placed on the CPRB’s June 12, 2012 meeting agenda where it was reviewed, deliberated, voted on, and closed accordingly.

The OPS investigation confirmed that the individual named in the complaint filed by his mother was not a minor, and therefore his mother did not have standing to file a complaint on his behalf. The complaint was closed without prejudice.

CPRB No. 28-11/OPS No. CC2011-074 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – an officer targeted the complainant and acted racially biased; *and*
2) Use of force – the officer threw the complainant into the police unit when securing her.

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

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

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

CPRB No. 32-11/OPS No. CC2011-107 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – an officer was rude and disrespectful to the complainant; *and*

2) Use of Force – the officer tried to push the complainant away with his arm.

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

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

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

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

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

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

CPRB No. 33-11/OPS No. CC2011-108 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer struck the complainant in the head with a gun and pulled him out of his vehicle; *and*

2) Conduct Standards – a supervisor used profanity when talking to 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. 34-11/OPS No. CC2011-012 [monitor appointed]

Nature of the Allegation(s): Use of Force – an officer used improper force by pointing his weapon at the complainant's brother.

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

OPS Additional Finding(s): OPS also found that the officer had failed to report any use of force to a supervisor, contrary to the SOP.

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. 36-11/OPS No. CC2011-116 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer harassed and discriminated against the complainant because of his nationality and language barrier.

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. 37-11/OPS No. CC2011-120 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards– an officer was loud rude and biased towards 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. 40-11/OPS No. CC2011-126 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – an officer was rude and got in the complainant’s face and yelled at her; *and*

2) Call Handling – the officer failed to complete a thorough investigation into the complainants matter.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the conduct standards allegation; *and*

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

CPRB Finding(s): 1) **Not Sustained** as to the conduct standards allegation; *and*

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

APD Final Determination(s): 1) **Not Sustained** as to the conduct standards allegation; *and*

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

CPRB No. 2-12/OPS No. CC2011-135 [monitor appointed]

Nature of the Allegation(s): Call Handling – an officer stopped the complainant and asked her inappropriate questions during the stop.

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

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

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

CPRB No. 5-12/OPS No. CC2012-020 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer harassed and is biased against the complainant.

OPS Preliminary Finding(s): **Unfounded** 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. 9-12/OPS No. CC2012-016 [no monitor appointed]

Nature of the Allegation(s): Call Handling – an officer profiled the complainant during a traffic stop.

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. 17-12/OPS No. CC2012-037 [no monitor appointed]

Nature of the Allegation(s): Call Handling – improper misconduct by a member of the Coeymans Police Department.

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

OPS Action(s): The complaint was forwarded to the Coeymans Police Department.

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

APD Final Determination(s): **No Finding** as to the call 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 third quarter of 2012, the Board received thirty (30) 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 thirty (30) new grievance forms that were filed in the third quarter of 2012, twelve (12) citizen complaint forms were filed. Of the three hundred and twenty-seven (327) grievance forms received by the Board since 2008, ninety-nine (99) complaint forms were filed.

MEETINGS

The Board met as a whole two (2) times for the conduct of business during the third quarter. Meetings were held on May 17, 2012 and June 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 third 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:

- Drafted and forwarded correspondence to Complainant's whose complaints were closed due to jurisdictional defects.
- Received and forwarded to the Board and the Common Council the resignation correspondence of Board member Patrick Toye.
- Received correspondence from NACOLE regarding the Board's membership in that group. The correspondence included information about the conference and this information was forwarded to board members.
- Drafted and forwarded correspondence to Chief Steven Krokoff and Albany Housing Authority regarding CPRB No. 10-11/OPS No. CC2011-023 and Housing Authority policies.
- 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.
- Drafted and forwarded correspondence to Council member Anton Konev in response to his inquiries about the 2011 Second Quarter report, including questions from specific CPRB cases.

- Drafted and forwarded correspondence to the City regarding Freedom of Information Law (FOIL) requests.
- Drafted and forwarded correspondence to two (2) citizens who filed claims with the Board against other police departments.
- Requested and scheduled meetings between the CPRB APD and Counsel Persons regarding the state of the mediation plan.
- Continued to assist in the development of CPRB Brochures in Spanish.
- Drafted and forwarded correspondence to the City of Spokane's Office of Police Ombudsman in response to a request for information regarding the CPRB.
- Forwarded the updated database scorecard and the grievance form chart to the OPS and members of the Board.
- Corresponded with the board regarding proper procedures to take when dealing with media outlets.
- Continued the development of the CPRB electronic database.
- 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.
- 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 three (3) committee/ task force 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
- Attended three (3) committee 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 third quarter, which included: The Board meeting as a whole two (2) times; holding one (1) community outreach meeting; three (3) committee/task force meetings; and closed seventeen (17) complaints and rendered findings for allegation(s) contained in thirteen (13) complaints. The Board continued to work collaboratively with the APD on its initiatives including discussions on proper procedures for mediators.

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: August 1, 2012