

City of Albany

CITIZENS' POLICE REVIEW BOARD

Third Quarterly Report August 1, 2013

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, 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 third 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 third quarter of 2013:

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

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

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

Vacancies and Re-Appointments

During the third quarter of 2013, the Board awaits a letter of reappointment for Edward Smart. The Board received reappointment letters for Maritza Martinez, and Akosua Yeboah. The Board still has one (1) vacancy created by former Board member Andrew Phelan.

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the seven (7) 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 third 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 third quarter of 2013, the Board received sixteen (16) new complaints in addition to its thirty-five (35) active complaints and twelve (12) suspended complaints. Monitors were appointed to investigate eight (8) of the sixteen (16) new complaints. Of the fifty-one (51) complaints before the Board, the Board presented twelve (12) complaints for review and rendered findings for the allegation(s) contained in twelve (12) complaints. These twelve (12) complaints were closed and contained a total of twenty-eight (28) allegations of misconduct. As to the twelve (12) 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.

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

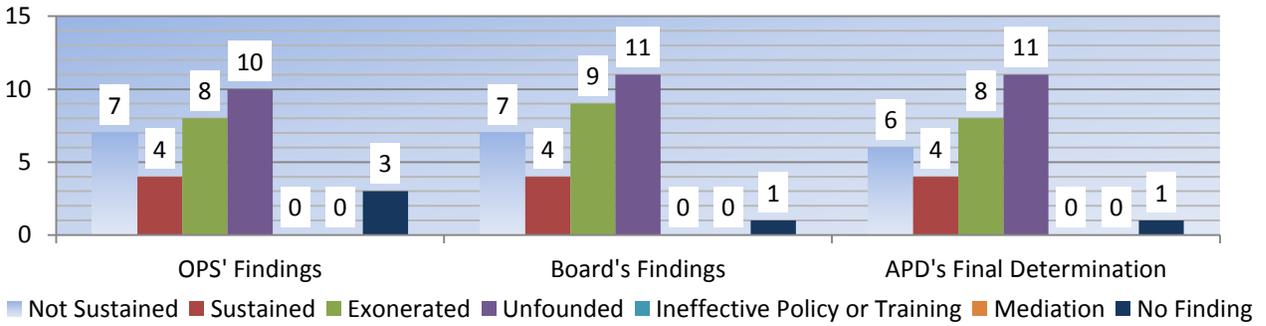


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the Third Quarter of 2013.

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. 33-06/OPS No. C-06-482 [no monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer stopped the complainant's vehicle, informed the complainant that his license was suspended, and used unnecessary force as the complainant exited his vehicle upon request; *and*

2) Conduct Standards – the officer was rude and made an inappropriate comment to the complainant.

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

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

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

CPRB No. 14-08/OPS No. C08-191 [monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – officers banged on the complainant's door and then broke the chain lock off the door;

- 2) Conduct Standards – an officer hung up the phone on the complainant;
- 3) Use of force – officers beat and sprayed the complainant with mace;
- 4) Use of force – officers punched the complainant in the head, face, and ribs, ten times;
- 5) Use of force – officers pushed the complainant through the door to the elevator and pushed his face into the elevator wall once inside the elevator;
- 6) Conduct Standards – officers were punching the complainant and saying they should kill him; *and*
- 7) Conduct Standards – while at Albany County Jail, the complainant’s requests for a phone call and medical treatment were denied

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

- CPRB Finding(s):
- 1) **Exonerated** as to the first conduct standards allegation;
 - 2) **Exonerated** as to the second conduct standards allegation;
 - 3) **Exonerated** as to the first use of force allegation;
 - 4) **Unfounded** as to the second use of force allegation;
 - 5) **Unfounded** as to the third use of force allegation;
 - 6) **Not Sustained** as to the third conduct standards allegation; *and*

7) **No Finding** as to the fourth conduct standards allegation.

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

2) **Exonerated** as to the second conduct standards allegation;

3) **Exonerated** as to the first use of force allegation;

4) **Unfounded** as to the second use of force allegation;

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

6) **Not Sustained** as to the third conduct standards allegation; *and*

7) **No Finding** as to the fourth conduct standards allegation.

CPRB No. 79-08/OPS No. CC2009-091 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force- a detective used excessive force on complainant which caused a broken ankle; *and*

2) Arrest Authority and Procedures –two (2) charges were filed against the complainant approximately 58 days after he was arrested.

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

2) **Exonerated** as to the arrest authority and procedures allegation.

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

2) **Exonerated** as to the arrest authority and procedures allegation.

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

2) **Exonerated** as to the arrest authority and procedures allegation.

CPRB No. 60-08/OPS No. C06-527 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer tased the complainant for no reason;

2) Arrest Authority and Procedures –the complainant was falsely arrested; *and*

3) Conduct Standards – officers discriminated against the complainant.

- OPS Preliminary Finding(s): 1) **Unfounded** as to the use of force allegation;
- 2) **Exonerated** as to the arrest authority and procedures allegation;
and
- 3) **Unfounded** as to the conduct standards allegation.

- CPRB Finding(s): 1) **Unfounded** as to the use of force allegation;
- 2) **Exonerated** as to the arrest authority and procedures allegation;
and
- 3) **Unfounded** as to the conduct standards allegation.

- APD Final Determination(s): 1) **Unfounded** as to the use of force allegation;
- 2) **Exonerated** as to the arrest authority and procedures allegation;
and
- 3) **Unfounded** as to the conduct standards allegation.

CPRB No. 5-09/OPS No. CC2009-004 [monitor appointed]

- Nature of the Allegation(s): 1) Call Handling – a law enforcement officer told the complainant that there was fifteen minute load and unload time for business;
- 2) Conduct Standards – the PSO told the complainant that she was above the law;
- 3) Conduct Standards – the police officer told the complainant to get out of his face and used profanity;
- 4) Conduct Standards – the officers threatened to arrest the complainant if he did not get out of the roadway;
- 5) Conduct Standards – all the officers were swearing at the complainant; *and*
- 6) Use of Force – officer dragged the complainant to the police vehicle.

- OPS Preliminary Finding(s): 1) **Exonerated** as to the call handling allegation;
- 2) **Not Sustained** as to the first conduct standard allegation;

- 3) **Sustained** as to the second conduct standard allegation;
- 4) **Not Sustained** as to the third conduct standard allegation;
- 5) **Unfounded** as to the fourth conduct standard allegation; *and*
- 6) **Unfounded** as to the use of force allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the call handling allegation;
- 2) **Not Sustained** as to the first conduct standard allegation;
- 3) **Sustained** as to the second conduct standard allegation;
- 4) **Not Sustained** as to the third conduct standard allegation;
- 5) **Unfounded** as to the fourth conduct standard allegation; *and*
- 6) **Unfounded** as to the use of force allegation.

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

- 2) **Not Sustained** as to the first conduct standard allegation;
- 3) **Sustained** as to the second conduct standard allegation;
- 4) **Not Sustained** as to the third conduct standard allegation;
- 5) **Unfounded** as to the fourth conduct standard allegation; *and*
- 6) **Unfounded** as to the use of force allegation.

CPRB No. 10-09/OPS No. CC2009-019 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling- the PSO is harassing the complainant; *and*
2) Conduct Standards –the PSO was rude towards the complainant.

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

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

CPRB Finding(s):

- 1) **No Finding** as to the call handling allegation due to lack of jurisdiction; *and*

2) **No Finding** as to the conduct standards allegation due to lack of jurisdiction.

CPRB No. 20-12/OPS No. CC2012-047 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – police officers were summoned to arrest the complainant and helped city officials and contractors steal his personal property.

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. 32-12/OPS No. CC2012-071 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer was rude and threatened the complainant.

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. 44-12/OPS No. CC2012-101 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – a detective refused to investigate the complainant's allegations; *and*

2) Call Handling – the complainant was harassed, goaded into a fight, and almost was kicked out of her apartment.

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. 47-12/OPS No. CC2012-111 [no monitor appointed]

Nature of the Allegation(s): Call Handling– police officers handcuffed the complainant and forced the complainant to leave his address.

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

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

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

CPRB No. 49-12/OPS No. CC2012-122 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority and Procedures – the complainant was wrongfully arrested and the report had false statements;
2) Conduct Standards –officers used derogatory language and called the complainant vulgar names; *and*
3) Use of Force – officers pushed, abused, and beat the complainant on his body and face.

OPS Preliminary Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation;
2) **Sustained** as to the conduct standards allegation; *and*
3) **Unfounded** as to the use of force allegation.

CPRB Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation;
2) **Sustained** as to the conduct standards allegation; *and*
3) **Unfounded** as to the use of force allegation.

APD Final Determination(s): 1) **Exonerated** as to the arrest authority and procedures allegation;
2) **Sustained** as to the conduct standards allegation; *and*
3) **Unfounded** as to the use of force allegation.

CPRB No. 50-12/OPS No. CC2012-124 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer drew his gun on the complainant, threw him on the floor, punched and elbowed him in the back of his head; *and*

2) Conduct Standards – the officer used profanity towards the complainant.

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

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

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

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

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

2) **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 third quarter of 2013, the Board received thirty-five (35) new grievance forms from the OPS, in addition to its four hundred and nineteen (419) grievance forms that were received since the inception of the grievance form process in 2008. Out of the thirty-five (35) new grievance forms that were filed in the third quarter of 2013, eleven (11) citizen complaint forms were filed. Of the four hundred and fifty-four (454) grievance forms received by the Board since 2008, one hundred and twenty-eight (128) 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 16, 2013 and June 20, 2013. 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 continued to be active in the third quarter. Some of its activity involved: meeting as a whole two (2) times; and reviewing twelve (12) complaints and rendering findings for allegation(s) contained in all twelve (12) 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

Dated: August 1, 2013