

City of Albany

CITIZENS' POLICE REVIEW BOARD

Fourth Quarterly Report November 1, 2013

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



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

November 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 fourth 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 fourth quarter of 2013:

Mickey Bradley
William McCarthy
Eugene Sarfoh

Marilyn Hammond
Anthony Potenza
Reverend Edward Smart

Maritza Martinez
David Rozen
Akosua Yeboah

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

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

Appointments, Vacancies, and Re-Appointments

During the fourth quarter of 2013, the Office of the Mayor appointed William McCarthy to fill the vacancy left by former Board member Andrew Phelan. William McCarthy's first term is set to expire on October 26, 2016. Chairman Edward Smart has been re-appointed by the Mayor to a second three-year term which is set to expire October 26, 2015.

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. Four (4) complaints were presented and reviewed in the fourth 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 fourth quarter of 2013, the Board received nineteen (19) new complaints in addition to its thirty-nine (39) active complaints and twelve (12) suspended complaints. Monitors were appointed to investigate seven (7) of the nineteen (19) new complaints. Of the fifty-eight (58) complaints before the Board, the Board presented five (5) complaints for review and rendered findings for the allegation(s) contained in four (4) complaints. These four (4) complaints were closed and contained a total of eight (8) allegations of misconduct. As to the four (4) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in four (4) cases.

In the fourth quarter the board dismissed one (1) complaint without review due to the unwillingness of the complainant to peruse their complaint. In the fourth quarter it was reported that that a complaint tabled in the first quarter had been successfully mediated. The Board voted to accept OPS finding of Exonerated in that case.

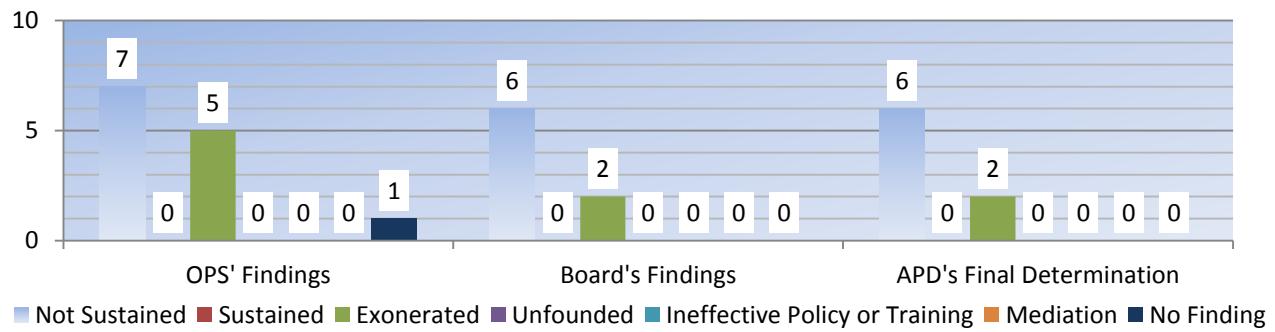


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the Fourth Quarter of 2013.

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. 26-07/OPS No. CC2007-003 [monitor appointed]

- Nature of the Allegation(s):
- 1) Use of Force – the complainant's sister was placed in a chokehold, thrown into bushes and onto ground which caused her to have a broken elbow;
 - 2) Use of Force – a trooper had his knee in the sister's back;
 - 3) Use of Force – when the sister was removed from police vehicle, an officer threw her to the ground causing her to strike her head;
 - 4) Conduct Standards – an officer called the sister a “n***r b***h”;
 - 5) Call Handling – the daughter was placed in the police vehicle when she had nothing to do with the fight; and
 - 6) Call Handling – family were not allowed to see the sister when she was at AMCH.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the first use of force allegation;
 - 2) **No Finding** as to the second use of force allegation;
 - 3) **Not Sustained** as to the third use of force allegation;

- 4) **Unfounded** as to the conduct standard allegation;
- 5) **Exonerated** as to the first call handling allegation; *and*
- 6) **Exonerated** as to the second call handling allegation.

CPRB Actions(s): The Board voted to close this case for lack of standing.

CPRB No. 18-12/OPS No. CC2012-038 [monitor appointed]

Nature of the Allegation(s): Conduct Standards – an officer stopped the complainant as the result of a felony vehicle stop, handcuffed her daughter, and told the complainant to shut up.

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

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

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

CPRB No. 1-13/OPS No. CC2013-004 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer threw the complainant on a wall, pushed his face into a board window, and kicked his feet; *and*
2) Use of Force – a supervisor shoved the complainant out the front door.

OPS Preliminary Finding(s): 1) **Exonerated** as to the first use of force allegation; *and*
2) **Not sustained** as to the second use of force allegation.

CPRB Finding(s): 1) **Exonerated** as to the first use of force allegation; *and*
2) **Not sustained** as to the second use of force allegation.

APD Final Determination(s): 1) **Exonerated** as to the first use of force allegation; *and*
2) **Not sustained** as to the second use of force allegation.

CPRB No. 2-13/OPS No. CC2013-005 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force – an officer threw the complainant face down on the stairs and two (2) other officers began assaulting the complainant with blows to the ribs and head; *and*

2) Conduct Standards –the complainant was not allowed into the station and was threatened with arrest if he entered.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the use of force allegation; *and*
2) **Not Sustained** 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) **Not Sustained** as to the conduct standards 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 first 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 first 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): In addition to its findings the Board recommended this complaint for mediation

APD Final Determination(s): 1) **Not Sustained** as to the first 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.

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 fourth quarter of 2013, the Board received thirty-two (32) new grievance forms from the OPS, in addition to its four hundred and fifty-four (454) grievance forms that were received since the inception of the grievance form process in 2008. Out of the thirty-two (32) new grievance forms that were filed in the fourth quarter of 2013, eight (8) citizen complaint forms were filed. Of the four hundred and eighty-six (486) grievance forms received by the Board since 2008, one hundred and thirty-six (136) complaint forms were filed.

MEETINGS

The Board met as a whole one (1) time for the conduct of business during the fourth quarter. That meeting was held on September 12, 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 fourth quarter, which included: reviewing five (5) complaints and rendering findings for allegation(s) contained in three (4) complaints. The Board recommended one (1) case for mediation. One complaint was reported as successfully mediated. 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: November 1, 2013