

# City of Albany

# DRAFT

**First Quarterly Report  
November 1, 2014 - January 31, 2015**

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



**CITIZENS' POLICE REVIEW BOARD**

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

November 1, 2014 - January 31, 2015

**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 First Quarterly Report so submitted in the year 2015.

## **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 first quarter of 2015:

April Bacon	David Rozen
Mickey Bradley	Eugene Sarfoh
Marilyn Hammond*	Reverend Edward B. Smart
Maritza Martinez	Akosua Yeboah

\* *Marilyn Hammond tendered her resignation at the January 8, 2015 meeting.*

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

Chair	Reverend Edward Smart
Vice-Chair	David Rozen
Secretary	Akosua Yeboah

#### *Nominations and Elections for Board Officers*

At the Board's January 8, 2015 meeting, nominations were held for the positions of Chair, Vice-Chair, and Secretary pursuant to the Board's Bylaws (Art. IV, Section 1). At that meeting, Reverend Edward Smart was nominated for the Chair position, David Rozen was nominated for the Vice-Chair position, and Akosua Yeboah was nominated for the position of Secretary. The slate was presented, voted on, and the motion to elect Reverend Edward Smart as Chairman, David Rozen as Vice-Chairman, and Akosua Yeboah as Secretary carried unanimously.

#### *Nominations and Elections for Committee/Task Force Chairs*

At the Board's January 8, 2015 meeting, all committee chairs remained the same as during the fourth quarter of 2014.

#### *Vacancies, Appointments, and Re-Appointments*

During the first quarter of 2015, Marilyn Hammond stepped down from the Board leaving the CPRB with three (3) vacancies. Additionally, Board members Mickey Bradley and Gene Sarfoh were awaiting reappointment.

April Bacon was appointed to the CPRB by the Mayor's Office on January 29, 2015 with a term expiring October 26, 2016.

#### **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. Ten (10) complaints were presented and reviewed in the first quarter of 2015.

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

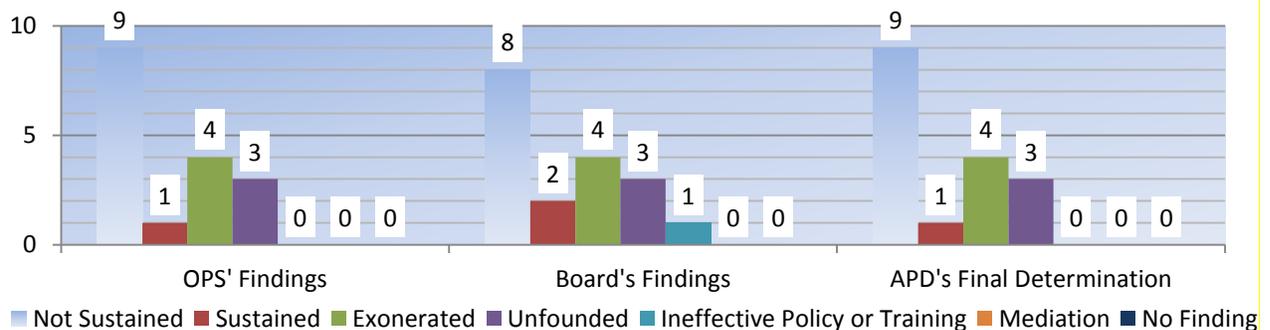
November 2014	David Rozen, Akosua Yeboah, Edward Smart, Mickey Bradley, Eugene Sarfoh, Maritza Martinez
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**COMPLAINT SUMMARIES AND STATISTICS**

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 first quarter of 2015, the Board received five (5) new complaints in addition to its forty-five (45) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate three (3) of the five (5) new complaints. Of the forty-three (43) complaints before the Board, the Board presented ten (10) complaints for review and rendered findings for the allegation(s) contained in ten (10) complaints. These ten (10) complaints were closed and contained a total of eighteen (18) allegations of misconduct. As to the ten (10) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in nine (9) cases.

Board action was taken in four (4) complaints, which were filed in the first quarter of 2015. Action was taken in one (1) complaint because it raised allegations against members of the Cohoes Police Department. This action included the Board voting unanimously to close this complaint as closed with no review. Action was taken in three (3) complaints in which letters were sent to the Chief of Police regarding training, or proposed changes to the SOP. In the first quarter of 2015, no complaints were reviewed and sent back to OPS for a further investigation.



**Figure 1:** Comparison of findings made by the OPS, the Board, and the Albany Police Department during the first quarter of 2015

**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. 8-14 / OPS No. CC2014-064** [monitor appointed]

Nature of the Allegation(s): Call Handling – Officers did nothing to help the complainant when the complainant called the police to their home. A supervisor stated that there was nothing they could do and the complainant should move out.

OPS Preliminary Finding(s): **Not Sustained** as to the call handling allegation.

CPRB Finding(s): **Not Sustained** as to the call handling allegation.

APD Final Determination(s): **Not Sustained** as to the call handling allegation.

**CPRB No. 9-14 / OPS No. CC2014-036** [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – The complainant was issued a speeding ticket in retaliation for filing a complaint with OPS; *and*  
2) Conduct Standards – An OPS detective contacted the complainant about their original complaint and was bullish and defensive.

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

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

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

**CPRB No. 12-14 / OPS No. CC2014-031** [no monitor appointed]

Nature of the Allegation(s): 1) Use of Force – While the complainant was trying to retrieve their keys from their car, the complainant was detained and placed in handcuffs; *and*  
2) Use of Force – While the complainant was trying to retrieve their keys from their car an officer pointed his gun at him; *and*  
3) Call Handling – The complainant is a good person and has a right to break into their own vehicle.

OPS Preliminary Finding(s): 1) **Exonerated** as to the use of force allegation;  
2) **Not sustained** as to the use of force allegation; *and*  
3) **Unfounded** as to the call handling allegation.

CPRB Finding(s): 1) **Exonerated** as to the use of force allegation;  
2) **Not sustained** as to the use of force allegation; *and*  
3) **Unfounded** as to the call handling allegation.

APD Final Determination(s): 1) **Exonerated** as to the use of force allegation;  
2) **Not sustained** as to the use of force allegation; *and*  
3) **Unfounded** as to the call handling allegation.

**CPRB No. 45-13 / OPS No. CC2013-109** [no monitor appointed]

Nature of the Allegation(s): 1) Department Vehicle Operations – While transporting the complainant to the station, the officer’s driving was unnecessarily fast and unsafe; *and*  
2) Conduct Standards – While an officer was having difficulty scanning the complainant’s fingerprints the officer stated “if you weren’t burning your fingers on your crack pipe this would work.”

OPS Preliminary Finding(s): 1) **Unfounded** as to the department vehicle operations allegation; *and*  
2) **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s): 1) **Unfounded** as to the department vehicle operations allegation; *and*  
2) **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s): 1) **Unfounded** as to the department vehicle operations allegation; *and*  
2) **Not Sustained** as to the conduct standards allegation.

**CPRB No. 31-14 / OPS No. CC2014-044** [no monitor appointed]

Nature of the Allegation(s): Call Handling – The complainant is being targeted by an officer who wrote the complainant five (5) open container tickets. This officer has requested sexual favors from the complainant.

OPS Preliminary Finding(s): **Not sustained** as to the call handling allegation.

CPRB Action(s): The CPRB sent a letter to the Chief requesting retraining community engagement officers on the treatment of homeless individuals who are showing signs of substance abuse issues.

CPRB Finding(s): **Not sustained** and **Ineffective Policy or Training** as to the call handling allegation.

APD Final Determination(s): **Not sustained** as to the call handling allegation.

**CPRB No. 36-13 / OPS No. CC2013-060** [monitor appointed]

Nature of the Allegation(s):

- 1) Call Handling – Officers raided, broke the locks off the complainant’s door, and trashed the complainant’s house;
- 2) Use of Force – Officers handcuffed the complainant’s 13-year old child;
- 3) Call Handling – Officers failed to read the complainant’s child their rights and questioned the child without the complainant being present; *and*
- 4) Call Handling – Officers detained the complainant’s child for a significant amount of time.

OPS Preliminary Finding(s)

- 1) **Exonerated** as to the call handling allegation;
- 2) **Exonerated** as to the use of force allegation;
- 3) **Not Sustained** as to the call handling allegation; *and*
- 4) **Not Sustained** as to the call handling allegation.

CPRB Action(s): The Board requested that APD have an individual discuss the change in juvenile contact policy with this family.

CPRB Finding(s):

- 1) **Exonerated** as to the call handling allegation;
- 2) **Exonerated** as to the use of force allegation;
- 3) **Not Sustained** as to the call handling allegation; *and*

4) **Sustained** as to the call handling allegation.

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

2) **Exonerated** as to the use of force allegation;

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

4) **Not Sustained** as to the call handling allegation.

**CPRB No. 15-14 / OPS No. CC2014-041** [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – An officer was rude, intimidating and aggressive towards the complainant and the complainant’s companion[see CPRB No. 15-14 / OPS No. CC2014-041]; *and*

2) Call Handling – The supervisor failed to give the complainant a Complaint Form or the officer’s name.

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

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

CPRB Action(s): The Board sent a letter to the Chief recommending that Citizen Complaint Forms be placed in public areas where citizens would not need to request one from an officer.

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

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

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

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

**CPRB No. 16-14 / OPS No. CC2014-041** [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards – An officer was rude, intimidating and aggressive towards the complainant and the complainant’s companion [see CPRB No. 15-14 / OPS No. CC2014-041]; *and*

2) Call Handling – The supervisor failed to give the complainant a Complaint Form or the officer’s name.

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

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

CPRB Action(s): The Board sent a letter to the Chief recommending that Citizen Complaint Forms be placed in public areas, where citizens would not need to request one from an officer.

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

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

**CPRB No. 17-14 / OPS No. CC2014-048** [no monitor appointed]

Nature of the Allegation(s): Arrest Authority & Procedures – An officer ran the complainant’s drivers license information and gave the information to the complainant’s child’s parent to be used in a Family Court Proceeding.

OPS Preliminary Finding(s): **Sustained** as to the use of arrest authority & procedures allegation.

CPRB Finding(s): **Sustained** as to the use of arrest authority & procedures allegation.

APD Final Determination(s): **Sustained** as to the use of arrest authority & procedures allegation.

**CPRB No. 26-14 / OPS No. CC2014-068** [no monitor appointed]

Nature of the Allegation(s): Call Handling – A sergeant “spitefully” declined the complainant’s drivers license renewal request.

OPS Preliminary Finding(s): **Unfounded** as to the use of call handling allegation.

CPRB Finding(s): **Unfounded** as to the use of call handling allegation.

APD Final Determination(s): **Unfounded** as to the use of 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 first quarter of 2015, the Board received ten (10) new Grievance Forms from the OPS, in addition to its five hundred and forty-five (545) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the ten (10) new Grievance Forms that were filed in the first quarter of 2015, one (1) citizen Complaint Form was filed. Of the five hundred and fifty-five (555) Grievance Forms received by the Board since 2008, one hundred and fifty-two (152) Complaint Forms were filed.

## **MEETINGS**

The Board met as a whole two (2) times for the conduct of business during the first quarter of 2015. Meetings were held on November 20, 2014 and January 8, 2015. 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.

## **CONCLUSION**

The Board had a productive first quarter, which included: the Board meeting as a whole two (2) times and reviewing ten (10) complaints and rendering findings for allegation(s) contained in ten (10) 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: February 1, 2015

Approved by the CPRB: [Date]