

City of Albany

DRAFT

**First Quarterly Report
November 1, 2016 - January 31, 2017**

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, 2016 - January 31, 2017

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 2017.

DEFINITIONS

For purposes of this Report, the following words and phrases shall have the following meanings:

APD - City of Albany Police Department

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 - 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) - 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 2017:

Larry Becker, Esq.	Zachary Garafalo	Veneilya Harden
Mickey Bradley	Charles Goodbee, Sr.	Matthew Ingram
Reverend Dr. Victor Collier	Michael A. Grady	Ivy Morris

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

Chair	Mickey Bradley
Vice-Chair	Ivy Morris
Secretary	Michael A. Grady

Vacancies and Re-Appointments

Larry Becker's original term ended on October 26, 2016, and he was reappointed by Common Council to a first term on January 15, 2017. Ivy Morris's original term ended on October 26, 2016, and she was reappointed by Common Council to a first term on January 5, 2017. Zachary Garafalo's first term ended on October 26, 2016, and his reappointment is pending.

COMPLAINT REVIEW

Under Section II, Subsection I of the Board's Operating Procedures, each of the 8 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. Eight complaints were presented and reviewed in the first quarter of 2017.

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

November 2016	Larry Becker, Mickey Bradley, Reverend Dr. Victor Collier, Zachary Garafalo, Charles Goodbee, Sr., Ivy Morris
December 2016	Larry Becker, Mickey Bradley, Zachary Garafalo, Charles Goodbee, Sr., Ivy Morris

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 2017, the Board received 11 new complaints in addition to its 20 active complaints and 4 suspended complaints. Monitors were appointed to investigate 4 of the 11 new complaints. Of the 31 complaints before the Board, the Board presented 12 complaints for review and rendered findings for the 31 allegations contained in 12 complaints. Twelve of these 12 complaints were closed and contained a total of 31 allegations of misconduct. In addition to the 12 complaints reviewed and closed, 2 complaints were closed with no review. As to the 12 complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in 10 of the 12 complaints.

Board action, aside from voting on complaints, was taken in 1 complaint where the Board asked the Albany Police Department to revisit training regarding officers taking reports from victims

reporting incidents of sexual assault and to take any steps necessary to ensure the APD properly handles reports of sexual assault and interviewing of victims.

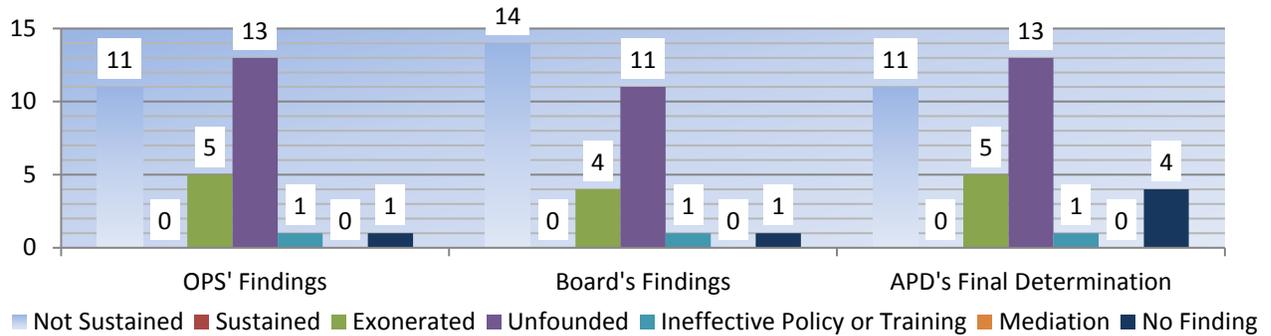


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the first quarter of 2017.

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. 06-16 / OPS No. CC2016-009 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - the complaint alleged when being placed in the police vehicle officers kned complainant repeatedly in the head.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the use of force allegation.

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation.

APD Final Determination(s): 1) **Not Sustained** as to the use of force allegation.

CPRB No. 02-16 / OPS No. CC2016-003 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - the complainant alleged being punched in the kidneys and then physically thrown down the exit stairs of the police station.

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

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation.

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

- Nature of the Allegation(s):
- 1) **Evidence and Property Handling** - the complainant alleged money was stolen from the complainant by the APD;
 - 2) **Evidence and Property Handling** - the complainant alleged \$1,100 was the amount the complainant had in possession when the money was stolen;
 - 3) **Arrest Authority and Procedures** - the complainant alleged being arrested for assault and robbery wrongfully, as the complainant believes the complainant was the victim of the assault and robbery and not the suspect; *and*
 - 4) **Biased-Based Policing** - the complainant alleged being discriminated against by APD officers on the basis of the complainant's race and existence of a prior criminal record.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the evidence and property handling allegation;
 - 2) **Not Sustained** as to the evidence and property handling allegation;
 - 3) **Exonerated** as to the arrest authority and procedures allegation; *and*
 - 4) **Not Sustained** as to the biased based policing allegation.

- CPRB Finding(s):
- 1) **Exonerated** as to the evidence and property handling allegation;
 - 2) **Not Sustained** as to the evidence and property handling allegation;
 - 3) **Exonerated** as to the arrest authority and procedures allegation; *and*
 - 4) **Not Sustained** as to the biased based policing allegation.

- APD Final Determination(s):
- 1) **Exonerated** as to the evidence and property handling allegation;
 - 2) **Not Sustained** as to the evidence and property handling allegation;
 - 3) **Exonerated** as to the arrest authority and procedures allegation; *and*

4) **Not Sustained** as to the biased-based policing allegation.

CPRB No. 10-16 / OPS No. CC2016-012 [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority and Procedures** - The complainant alleged being illegally stopped and falsely charged; *and*
2) **Use of Force** - The complainant alleged excessive force was used when extracting the complainant from the vehicle and once out of the vehicle officers continued to hit and physically abuse the complainant without a legal reason.

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

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

CPRB Finding(s): 1) **Unfounded** as to the arrest authority and procedures allegation;
and

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

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

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

CPRB No. 11-12 / OPS No. CC2011-123 [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - The complainant alleged the complainant's children were in the complainant's vehicle when it was stopped and searched. The complainant alleges the vehicle's center console was removed and damaged along with the ignition key during the search.

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

CPRB Finding(s): 1) **Board failed to render a finding with a majority vote** as to the call handling allegation.

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

CPRB No. 30-11 / OPS No. CC2011-088 [no monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - The complainant alleged officers used condescending and foul language directed toward the complainant;

- 2) **Use of Force** - The complainant alleged officers showed aggression and pointed their guns at the complainant's window;
- 3) **Call Handling** - The complainant alleged the occupants of the complainant's vehicle were wrongly profiled by the officers;
- 4) **Arrest Authority and Procedures** - The complainant alleged the complainant's vehicle was searched without probable cause;
and
- 5) **Evidence and Property Handling** - The complainant believes the complainant's vehicle should not have been towed because the complainant thought she had until the end of July 2011 to renew the vehicle's registration.

- OPS Preliminary Finding(s):
- 1) **Not Sustained** as to the conduct standards allegation;
 - 2) **Exonerated** as to the use of force allegation;
 - 3) **Unfounded** as to the call handling allegation;
 - 4) **Exonerated** as to the arrest authority and procedures allegation;
and
 - 5) **Ineffective Policy or Training** as to the evidence and property handling allegation.

- CPRB Finding(s):
- 1) **Not Sustained** as to the conduct standards allegation;
 - 2) **Exonerated** as to the use of force allegation;
 - 3) **Unfounded** as to the call handling allegation;
 - 4) **Exonerated** as to the arrest authority and procedures allegation;
and
 - 5) **Ineffective Policy or Training** as to the evidence and property handling allegation.

- APD Final Determination(s):
- 1) **Not Sustained** as to the conduct standards allegation;
 - 2) **Exonerated** as to the use of force allegation;
 - 3) **Unfounded** as to the call handling allegation;

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

5) **Ineffective Policy or Training** as to the evidence and property handling allegation.

CPRB No. 06-12 / OPS No. CC2012-018 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - The complainant alleged officers grabbed complainant and threw them to the ground. Complainant alleged once on the ground officers placed complainant in handcuffs and stomped on complainant's kidneys, punched complainant in the face, and kicked complainant in the head, *and*

2) **Property Handling** - The complaint alleged the complainant's eyeglasses were destroyed by officers during the encounter.

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

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

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

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

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

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

CPRB No. 53-12 / OPS No. CC2012-053 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - The complainant alleged that when attempting to break up a fight in front of the complainant's residence something struck her face and caused the complainant to fall to the ground. When the complainant looked up, an officer was standing over the complainant and did not offer any assistance.

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

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

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

CPRB No. 12-16 / OPS No. CC2016-016 [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority and Procedures** - The complainant alleged being pulled over for no reason; *and*
2) **Biased-Based Policing** - The complainant alleged the officers were racist and acted in a way to scare the complainant.

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

2) **Unfounded** as to the biased-based policing allegation.

CPRB Finding(s): 1) **Unfounded** as to the arrest authority and procedures allegation, *and*

2) **Unfounded** as to the biased-based policing allegation.

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

2) **Unfounded** as to the biased-based policing allegation.

CPRB No. 36-12 / OPS No. CC2012-087 [monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - The complainant alleged an officer approached the complainant's vehicle and told the complainant and the complainant's spouse to "shut the f-- up" and referred to them as "f--ing crackheads." The complainant also alleges when the complainant left the scene another officer immediately pulled over the complainant and issued tickets in retaliation for the interaction with the first officer; *and*

2) **Arrest Authority and Procedures** - The complainant alleged the traffic stop initiated by the second officer immediately after his contact with the first officer was done in retaliation for the contact with the first officer.

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

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

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

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

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

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

CPRB No. 39-12 / OPS No. CC2012-090 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - The complainant alleged that during a traffic stop the driver removed a gun from their waistband and threw it in the complainant's lap so that the gun then fell on the floor. The complainant alleges the driver was outside of the vehicle talking to the officers and told them there was a weapon in the car, and then the officers yanked the complainant out of the car and slammed the complainant on the road and kicked the complainant in the face, causing the complainant to pass out and sustain a broken jaw;

2) **Evidence and Property Handling** - The complainant alleged that during the search of the complainant's residence the APD stole \$100, a bracelet, and a ring; *and*

3) **Evidence and Property Handling** - The complainant alleged the complainant's earring was damaged during the booking process.

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

2) **Not Sustained** as to the evidence and property handling allegation; *and*

3) **Not Sustained** as to the evidence and property handling allegation.

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

2) **Not Sustained** as to the evidence and property handling allegation; *and*

3) **Not Sustained** as to the evidence and property handling allegation.

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

2) **Not Sustained** as to the evidence and property handling allegation; *and*

3) **Not Sustained** as to the evidence and property handling allegation.

Nature of the Allegation(s): 1) **Use of Force** - The complainant alleged that while waiting for a taxi with friends, the police pulled up and handcuffed the complainant roughly; when asked why the complainant was being handled roughly, the police refused to fully explain the reason; the officer then slammed the complainant on nearby steps and put a knee into the complainant's back.

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

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation.

APD Final Determination(s): 1) **Unfounded** as to the 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, then-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 2017, the Board received 3 new Grievance Forms from the OPS, in addition to its 577 Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the 3 new Grievance Forms that were filed in the first quarter of 2017, 1 Citizen Complaint Form was filed. Of the 580 Grievance Forms received by the Board since 2008, 155 Complaint Forms were filed.

MEETINGS

The Board met as a whole twice for the conduct of business during the first quarter of 2017. Meetings were held on November 10, 2016, and December 8, 2016. Both of the meetings were held at the University at Albany SUNY Downtown Campus, Levitt Room in Milne Hall, 135 Washington Avenue, Albany, N.Y. 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 twice, reviewing 8 complaints, and rendering findings for 17 allegations contained in 8 complaints. The Albany Citizens' Police Review Board continued to work collaboratively with the Albany Police Department.

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: April 13, 2017