

# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **Second Quarterly Report February 1, 2015 - April 30, 2015**

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



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

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**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 Second 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 second quarter of 2015:

April Bacon*	Charles Goodbee	David A. Rozen	Akosua Yeboah*
Larry Becker	Maritza Martinez	Eugene Sarfoh	
Mickey Bradley	Ivy Morris	Rev. Edward B. Smart	

\*April Bacon resigned on March 30, 2015; Akosua Yeboah resigned on February 6, 2015.

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

Chair	Reverend Edward B. Smart
Vice-Chair	David A. Rozen
Secretary	Mickey Bradley*

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

\*At the Board's April 23, 2015 meeting, nominations were held for the position of Secretary due to Ms. Yeboah's departure. At that meeting, Chairman Smart moved to install Board member Mickey Bradley as the Secretary, and the motion was seconded by Charles Goodbee. The motion was carried unanimously.

#### *Vacancies and Re-Appointments*

During the second quarter of 2015, Akosua Yeboah's resignation left the CPRB with one (1) Board member vacancy, as well as a vacancy for the Outreach and Education Committee Chair position. Additionally, the position of Complaint Review Committee Chair became vacant; Mr. Bradley volunteered for this position at the Board's April 23, 2015 meeting.

#### **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. Eleven (11) complaints were presented and reviewed in the second quarter of 2015.

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

March 2015	David Rozen, Mickey Bradley, Eugene Sarfoh, Maritza Martinez
April 2015	David Rozen, Mickey Bradley, Eugene Sarfoh, Larry Becker, Maritza Martinez

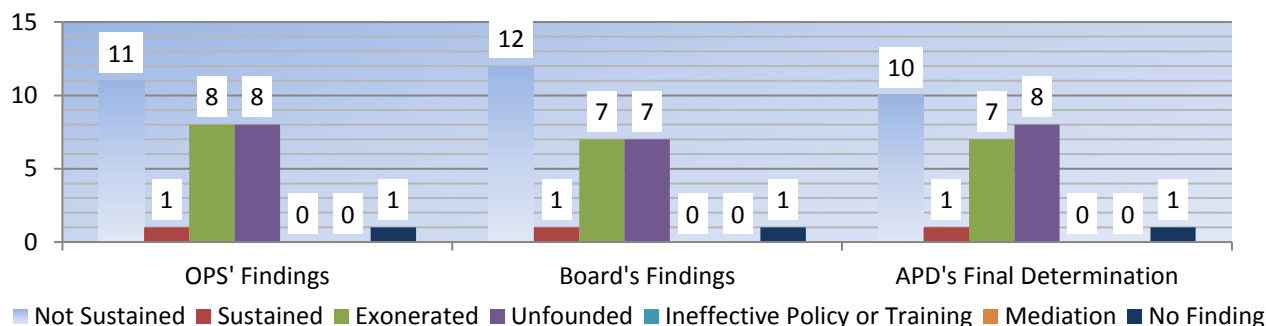
#### **COMPLAINT SUMMARIES AND STATISTICS**

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 second quarter of 2015, the Board received twelve (12) new complaints in addition to its thirty-eight (38) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate seven (7) of the twelve (12) new complaints. Of the forty-three (43) complaints before the Board, the Board presented eleven (11) complaints for review and rendered findings for

the allegation(s) contained in eleven (11) complaints. Five (5) of these eleven (11) complaints were closed and contained a total of fourteen (14) allegations of misconduct. As to the six (6) 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 one (1) complaint, which was filed in the second quarter of 2015. In the second quarter of 2015, one (1) complaint was reviewed and sent back to OPS for further investigation.



**Figure 1:** Comparison of findings made by the OPS, the Board, and the Albany Police Department during the second 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. 33-13 / OPS No. CC2013-091** [no monitor appointed]

- Nature of the Allegation(s):
- 1) **Call Handling** - Complainant was pulled over for a seatbelt ticket by an officer and after the complainant left the car, multiple NYS troopers showed up; *and*
  - 2) **Arrest Authority & Procedures** - Parole officers searched the complainant's car.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the call handling allegation; *and*
  - 2) **No Finding** as to the arrest authority & procedures allegation.

- CPRB Finding(s):
- 1) **Exonerated** as to the call handling allegation; *and*
  - 2) **No Finding** as to the arrest authority & procedures allegation.

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

2) **No Finding** as to the arrest authority & procedures 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 his/her keys from his/her car, the complainant was detained and placed in handcuffs;

2) **Use of Force** - While the complainant was trying to retrieve his/her keys from his/her car an officer pointed his gun at him/her; *and*

3) **Call Handling** - The complainant is a good person and has a right to break into his/her 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. 29-13 / OPS No. CC2013-080** [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedures** - the complainant was falsely arrested for possession of imitation crack cocaine;

2) **Call Handling** - the officer refused the complainant medical attention while the complainant was suffering an asthma attack;

3) **Unprofessional Conduct** - the officer tried to coerce the complainant into not accepting medical attention by threatening him/her with jail time; *and*

4) **Unprofessional Conduct** – the officer lied during the complainant’s parole hearing.

OPS Preliminary Finding(s): 1) **Unfounded** as to the arrest authority & procedure allegation;  
2) **Not Sustained** as to the call handling allegation;  
3) **Unfounded** as to the unprofessional conduct allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

CPRB Finding(s): 1) **Unfounded** as to the arrest authority & procedure allegation;  
2) **Not Sustained** as to the call handling allegation;  
3) **Unfounded** as to the unprofessional conduct allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

APD Final Determination(s): 1) **Unfounded** as to the arrest authority & procedure allegation;  
2) **Not Sustained** as to the call handling allegation;  
3) **Unfounded** as to the unprofessional conduct allegation; *and*  
4) **Unfounded** as to the unprofessional conduct allegation.

**CPRB No. 23-13 / OPS No. CC2013-059** [no monitor appointed]

Nature of the Allegation(s): 1) **Unprofessional Conduct** - the officer threatened to arrest the complainant;  
2) **Call Handling** - the officer conducted an unlawful search and seizure;  
3) **Use of Force** - the handcuffs were too tight and caused swelling to the complainant’s wrist;  
4) **Unprofessional Conduct** - the officer called the complainant a dummy; *and*  
5) **Unprofessional Conduct** - the officer threatened to arrest him/her if a complaint was filed.

OPS Preliminary Finding(s): 1) **Exonerated** as to the unprofessional conduct allegation;

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

CPRB Finding(s):

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

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

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

**CPRB No. 05-13 / OPS No. CC2013-009** [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - two officers held the complainant down and beat him/her in the head; *and*

2) **Unprofessional Conduct** - the complainant asked officers why they were beating him/her and the officers allegedly stated: ask Obama.

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

2) **Not Sustained** as to the unprofessional conduct allegation.

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

2) **Not Sustained** as to the unprofessional conduct allegation.

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



2) **Not Sustained** as to the unprofessional conduct allegation.

**CPRB No. 07-14 / OPS No. CC2014-021** [no monitor appointed]

Nature of the Allegation(s): **Call Handling** - the complainant was exiting the store and the officer removed approximately \$780 from his/her pocket and kept the money, refusing to return it.

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. 23-14 / OPS No. CC2014-061** [monitor appointed]

Nature of the Allegation(s): 1) **Unprofessional Conduct** - officers used profanity and a racial term towards complainant; *and*

2) **Call Handling** - officers failed to ticket the complainant until the day following the violation.

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

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

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

CPRB Action(s): At the April 23, 2015 meeting, the Board moved to return this complaint to OPS for further investigation into the officer's handling of the incident, although the officer adhered to SOP.

**CPRB No. 08-13 / OPS No. CC2013-022** [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedures** - officers removed complainant from his/her vehicle, handcuffed him/her, and search his/her vehicle without cause;

2) **Unprofessional Conduct** - officers may have planted drugs in the complainant's vehicle;

3) **Unprofessional Conduct** - officers publicly humiliated the complainant; *and*

4) **Unprofessional Conduct** - officers discriminated against the complainant because he/she was white.

OPS Preliminary Finding(s): 1) **Exonerated** as to the arrest authority & procedures allegation;  
2) **Unfounded** as to the unprofessional conduct allegation;  
3) **Not Sustained** as to the unprofessional conduct allegation; *and*  
4) **Not Sustained** as to the unprofessional conduct allegation.

CPRB Finding(s): 1) **Exonerated** as to the arrest authority & procedures allegation;  
2) **Unfounded** as to the unprofessional conduct allegation;  
3) **Not Sustained** as to the unprofessional conduct allegation; *and*  
4) **Not Sustained** as to the unprofessional conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the arrest authority & procedures allegation;  
2) **Unfounded** as to the unprofessional conduct allegation;  
3) **Not Sustained** as to the unprofessional conduct allegation; *and*  
4) **Not Sustained** as to the unprofessional conduct allegation.

**CPRB No. 14-14 / OPS No. CC2014-037** [no monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - officers unlawfully questioned the complainant regarding selling pictures; complainant claims that he/she only had pictures on display; *and*  
2) **Unprofessional Conduct** - when complainant attempted to speak with an officer the officer allegedly responded using foul and obscene language.

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

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

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

2) **Not Sustained** as to the unprofessional conduct allegation.

**CPRB No. 19-14 / OPS No. CC2014-052** [no monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - officers filed a false accident report and tow report, blaming the complainant who was not questioned or at fault; *and*

2) **Unprofessional Conduct** - officers allegedly threw complainant's license on the ground and refused to retrieve it; officer used obscenities.

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

2) **Unfounded** as to the unprofessional conduct allegation.

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

2) **Not Sustained** as to the unprofessional conduct allegation.

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

2) **Unfounded** as to the unprofessional conduct allegation.

**CPRB No. 24-14 / OPS No. CC2014-065** [no monitor appointed]

Nature of the Allegation(s): 1) **Unprofessional Conduct** - officers' conduct was insulting and inappropriate as they conversed with his girlfriend while she was unclothed; *and*

2) **Call Handling** - officers mishandled the incident by not treating girlfriend as an Emotionally Disturbed Person (EDP) rather than a domestic incident.

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

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

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

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

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

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

**CPRB No. 29-14 / OPS No. CC2014-073** [monitor appointed]

Nature of the Allegation(s): 1) **Unprofessional Conduct** - officer was verbally abusive and aggressive towards the complainant;

2) **Unprofessional Conduct** - officer almost ran over complainant's feet as officer drove away; *and*

3) **Unprofessional Conduct** - officer's statements were racially motivated as alleged by the complainant.

OPS Preliminary Finding(s): 1) **Sustained** as to the unprofessional conduct allegation;

2) **Unfounded** as to the unprofessional conduct allegation; *and*

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

CPRB Finding(s): 1) **Sustained** as to the unprofessional conduct allegation;

2) **Unfounded** as to the unprofessional conduct allegation; *and*

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

APD Final Determination(s): 1) **Sustained** as to the unprofessional conduct allegation;

2) **Unfounded** as to the unprofessional conduct allegation; *and*

3) **Not Sustained** as to the unprofessional conduct 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 second quarter of 2015, the Board received nine (9) 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 nine (9) new Grievance Forms that were filed in the second quarter of 2015, one (1) citizen Complaint Form was filed. Of the five hundred and fifty-four (554) Grievance Forms received by the Board since 2008, one hundred and fifty-three (153) Complaint Forms were filed.

## **MEETINGS**

The Board met as a whole two (2) times for the conduct of business during the second quarter of 2015. Meetings were held on March 12, 2015 and April 23, 2015. Both of the two (2) meetings were held at the GWU the Center, 274 Washington Avenue, 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 second quarter, which included: the Board meeting as a whole two (2) times and reviewing twelve (12) complaints and rendering findings for allegation(s) contained in 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: February 1, 2015

Approved by the CPRB: April 14, 2016