

City of Albany

CITIZENS' POLICE REVIEW BOARD

Third Quarterly Report May 2, 2014 - August 1, 2014

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

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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 third quarterly report so submitted in the year 2014.

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 2014:

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	David Rozen
Secretary	Akosua Yeboah

Vacancies and Re-Appointments

During the third quarter of 2014, 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 William McCarthy.

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. Twenty-two (22) complaints were presented and reviewed in the third quarter of 2014.

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 2014, the Board received thirteen (13) new complaints in addition to its forty-nine (49) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate five (5) of the thirteen (13) new complaints. Of the fifty-one (51) complaints before the Board, the Board presented twenty-two (22) complaints for review and rendered findings for the allegation(s) contained in nineteen (19) complaints. These nineteen (19) complaints were closed and contained a total of twenty four (24) allegations of misconduct. As to the nineteen (19) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in nineteen (19) cases.

In the third quarter of 2014, two (2) complaints were reviewed and sent back to OPS for further investigation. The Board took action on CPRB 10-14/ OPS No. CC2014-034 because the complaint was complaining about various attorneys, members of the DA's office, judges and various inmates. The Board does not have jurisdiction review allegations about these individuals and the case was closed.

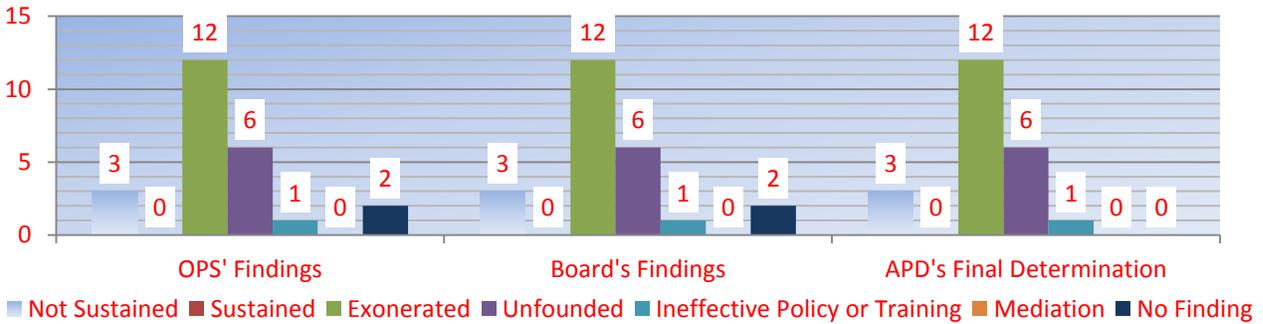


Figure 1: Comparison of Findings made by the OPS, the Board, and the Albany Police Department during the third quarter of 2014.

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. 10-14 / OPS No. CC2009-091 [no monitor appointed]

CPRB action(s) This allegation contained complaints against various attorneys, DA's office, judges and inmates. The Board does not have jurisdiction to review allegations against individuals outside of the Albany Police Department. The case was closed with no review.

CPRB No. 5-14 / OPS No. CC2014-026 [monitor appointed]

Nature of the Allegation(s): Call Handling - an officer stopped the complainant because there were two black males in the car.

OPS Preliminary Finding(s): **No Finding** as to the call handling allegation.

CPRB Finding(s): **No Finding** as to the call handling allegation.

APD Final Determination(s): **No Finding** as to the call handling allegation.

CPRB No. 2-14 / OPS No. CC2014-005 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - an officer questioned the complainant and threatened to taze him if he did not get of his vehicle; *and*
 2) Call Handling - the officer did not explain to the complainant the reason for his detention and the police contact.

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

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

CPRB Finding(s):

1) **Unfounded** as to the first call handling allegation; *and*

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

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

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

CPRB No. 1-14 / OPS No. CC2013-140 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - when the complainant went to the police station to file a complaint, they were arrested.

OPS Preliminary Finding(s): 1) **Unfounded** as to the conduct standard allegation.

CPRB Finding(s): 1) **Unfounded** as to the conduct standard allegation.

APD Final Determination(s): 1) **Unfounded** as to the conduct standard allegation.

CPRB No. 48-13 / OPS No. CC2013-123 [no monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority & Procedures - an officer came to the complainant's residence and asked the complainant for ID;

2) Conduct Standards - the officer cussed at the complainant and shined a flashlight in the complainant and their spouse's face;

3) Conduct Standards - the officer used profanity when talking to the complainant; *and*

4) Conduct Standards - the officer kicked items over that were on the complainant's porch.

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

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

3) **Not Sustained** as to the second conduct standards allegation; *and*

4) **Not Sustained** as to the third conduct standards allegation.

CPRB Finding(s): 1) **Exonerated** as to the arrest authority and procedures allegation;
2) **Exonerated** as to the first conduct standards allegation;
3) **Not Sustained** as to the second conduct standards allegation;
and
4) **Not Sustained** as to the third conduct standards allegation.

APD Final Determination(s): 1) **Exonerated** as to the arrest authority and procedures allegation;
2) **Exonerated** as to the first conduct standards allegation;
3) **Not Sustained** as to the second conduct standards allegation;
and
4) **Not Sustained** as to the third conduct standards allegation.

CPRB No. 47-13 / OPS No. CC20013-125 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - a detective crashed their car into the complainant;
and
2) Use of Force - the detectives punched the complainant multiple times while handcuffed.

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

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

CPRB No. 44-13 / OPS No. CC2013-034 [no monitor appointed]

Nature of the Allegation(s): Call Handling - an officer harassed the complainant as the complainant sat in front of a building talking to tenants.

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

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

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

CPRB No. 43-13 / OPS No. CC2013-056 [no monitor appointed]

Nature of the Allegation(s): Call Handling - an officer acted unprofessionally when the officer yelled profanity at the complainant.

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. 38-13 / OPS No. CC2013-095 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - officers failed to assist the complainant and failed to write a report.

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. 37-13 / OPS No. CC2013-093 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer failed to assist the complaint when they called to report a crime; *and*

2) Conduct Standards - an officer failed to take a report.

OPS Preliminary Finding(s): 1) **Unfounded** as to the first conduct standards allegation; *and*

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

CPRB Finding(s): 1) **Unfounded** as to the first conduct standards allegation; *and*

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

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

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

CPRB No. 35-13 / OPS No. CC2013-088 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - officers approached the complainant and asked for the complainant's license and keys; *and*

2) Conduct Standards - the complainant was forced to walk home after the complainant's vehicle was towed.

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

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

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

CPRB No. 31-13 / OPS No. CC2013-082 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - the complainant was not treated in a civil manner.

OPS Preliminary Finding(s): **No finding** as to the call handling allegation.

CPRB Finding(s): **No finding** as to the call handling allegation.

APD Final Determination(s): **No finding** as to the call handling allegation.

CPRB No. 27-13 / OPS No. CC2013-070 [no monitor appointed]

Nature of the Allegation(s): 1) Conduct Standards - an officer did not speak to the complainant appropriately and the officer threatened to throw the complainant in jail.

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

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

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

CPRB No. 21-13 / OPS No. CC2013-061 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - an officer failed to satisfactorily investigate the complainant's complaint; *and*

2) Conduct Standards - the officer laughed at the complainant "under his breath".

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

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

CPRB Action(s) At the May 8th 2014 meeting, the Board failed to reach a consensus on the call handling allegation. This case was sent back to the Chief for further review.

CPRB Finding(s): 1) Motion failed, see above; *and*

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

CPRB No. 20-13 / OPS No. CC2013-047 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling - an officer threatened to arrest the complainant for obstructing justice; *and*

2) Conduct Standards - the officer stepped on the complainant's foot, pushed the complainant, and the officer made racial implications.

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

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

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

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

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

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

CPRB No. 19-13 / OPS No. CC2013-054 [no monitor appointed]

Nature of the Allegation(s): Conduct Standards - an officer called the complainant's landlord to see if the complainant still lived there.

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. 17-13 / OPS No. CC2013-048 [monitor appointed]

Nature of the Allegation(s):

- 1) Call Handling - detectives illegally searched the complainant's vehicle;
- 2) Call Handling - the complainant's vehicle was searched in front of the complainant's children;
- 3) Call Handling - detectives strip searched the complainant;
- 4) Call Handling - detectives strip searched the complainant in an area not recorded by surveillance video;
- 5) Call Handling - detectives subjected the complainant to threats, verbal assault, and negative comments; *and*
- 6) Call Handling - the complainant was never read his rights.

OPS Preliminary Finding(s):

- 1) **Exonerated** as to the first call handling allegation;
- 2) **Not Sustained** as to the second call handling allegation;
- 3) **Exonerated** as to the third call handling allegation;
- 4) **Exonerated** as to the fourth call handling allegation;
- 5) **Not Sustained** as to the fifth call handling allegation; *and*
- 6) **Unfounded** as to the sixth call handling allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the first call handling allegation;
- 2) **Not Sustained** as to the second call handling allegation;
- 3) **Exonerated** as to the third call handling allegation;
- 4) **Exonerated** as to the fourth call handling allegation;
- 5) **Not Sustained** as to the fifth call handling allegation; *and*
- 6) **Unfounded** as to the sixth call handling allegation.

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

- 2) **Not Sustained** as to the second call handling allegation;
- 3) **Exonerated** as to the third call handling allegation;
- 4) **Exonerated** as to the fourth call handling allegation;
- 5) **Not Sustained** as to the fifth call handling allegation; *and*
- 6) **Unfounded** as to the sixth call handling allegation.

CPRB No. 16-13 / OPS No. CC2013-054 [no monitor appointed]

Nature of the Allegation(s): Call Handling - an officer stopped, followed, harassed and profiled the complainant.

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. 12-13 / OPS No. CC2013-017 [monitor appointed]

Nature of the Allegation(s): Arrest Authorities & Procedures - officers wrongfully arrested the complainant.

OPS Preliminary Finding(s): **Exonerated** as to the arrest authorities and procedures allegation.

CPRB Finding(s): **Exonerated** as to the arrest authorities and procedures allegation.

APD Final Determination(s): **Exonerated** as to the arrest authorities and procedures allegation.

CPRB No. 11-13 / OPS No. CC2013-029 [no monitor appointed]

Nature of the Allegation(s): 1) Call Handling - detectives never gave the complainant a copy of the warrant; *and*

2) Call Handling - the complainant never received a property report for the items seized from the complainant's home.

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

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

CPRB Finding(s): 1) **Not Sustained** as to the first call handling allegation; *and*

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

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

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

CPRB No. 1-07 / OPS No. CC2006-596 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - an officer attacked the complainant; *and*

2) Call Handling - the officer entered the complainant's home without the complainant's permission.

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

2) **Ineffective Policy/Training** as to the call handling allegation.

CPRB Action(s):

This complaint was sent back for further investigation after the June 12, 2007 meeting. Upon further investigation, and after the case was unsuspended by the Mayor's Office, the case was presented, voted on and closed out at the June 26, 2014 meeting.

CPRB Finding(s):

1) **Exonerated** as to the use of force allegation; *and*

2) **Ineffective Policy/Training** as to the call handling allegation.

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

2) **Ineffective Policy/Training** as to the call handling allegation.

CPRB No. 35-05 / OPS No. CC2005-656 [monitor appointed]

Nature of the Allegation(s): 1) Use of Force - an officer violently removed the complainant from the complainant vehicle and hit and pushed the complainant during the body search;

2) Arrest Authority & Procedures - an officer unlawfully searched the complainant;

3) Conduct Standards - the officers planted evidence;

4) Arrest Authority & Procedures - an officer stopped the complainant by profiling him/her; *and*

5) Arrest Authority & Procedures - the driver of vehicle was released without charges or tickets.

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

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

3) **Not Sustained** as to the conduct standards allegation;

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

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

CPRB Action(s): At the May 8, 2014 meeting, the Board failed to vote on the fourth and fifth causes of action. The Board inadvertently failed to vote on the second cause of action. The Board sent this case to Chief Krokoff for further investigation.

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

2) See Above;

3) **Not Sustained** as to the conduct standards allegation;

4) See Above; *and*

5) See Above.

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 2014, the Board received fifteen (15) new Grievance Forms from the OPS, in addition to its five hundred and twenty four (524) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the fifteen (15) new Grievance Forms that were filed in the third quarter of 2014, four (4) citizen Complaint Forms were filed. Of the five hundred and thirty nine (539) Grievance Forms received by the Board since 2008, one hundred and forty-eight (148) Complaint Forms were filed.

MEETINGS

The Board met as a whole three (3) times for the conduct of business during the second quarter. Meetings were held on May 8, 2014, May 15, 2014, and June 26, 2014. 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 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 steady third quarter, which included: the Board meeting as a whole three (3) times; and reviewing twenty two (22) complaints and rendering findings for allegation(s) contained in nineteen (19) 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, 2014

Approved by the CPRB: March 12, 2015