

City of Albany

CITIZENS' POLICE REVIEW BOARD

Fourth Quarterly Report August 1, 2015 - October 31, 2015

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

August 1, 2015 - October 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 Fourth 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:

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 fourth quarter of 2015:

Mickey Bradley
Larry Becker, Esq.
Charles Goodbee, Sr.

*Michael Grady
Maritza Martinez
Ivy Morris

Kerry Mulligan
David A. Rozen
**Reverend Edward B. Smart

*Michael Grady was appointed to the Board on September 1, 2015;
**Reverend Edward B. Smart's second term ended on October 26, 2015.

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

Chair	Reverend Edward B. Smart	**until October 26, 2015
Vice-Chair	David A. Rozen	
Secretary	Mickey Bradley	

Vacancies and Re-Appointments

Board member Maritza Martinez's first term ended on October 26, 2015. A letter was sent to Common Council requesting her reappointment. Board member Kerry Mulligan's first term ended on October 26, 2015, and her reappointment is pending.

COMPLAINT REVIEW

Pursuant to 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. Nine complaints were presented and reviewed in the fourth quarter of 2015.

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

September 2015	Larry Becker, Mickey Bradley, Charles Goodbee, and Ivy Morris
October 2015	Larry Becker, Charles Goodbee, Michael Grady, Ivy Morris, and Kerry Mulligan

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 2015, the Board received 11 new complaints in addition to its 37 active complaints and 10 suspended complaints. Monitors were appointed to investigate 5 of the 11 new complaints. Of the 37 complaints before the Board, the Board presented 9 complaints for review and rendered findings for the 20 allegation(s) contained in 9 complaints. Nine of these 9 complaints were closed and contained a total of 20 allegations of misconduct. As to the 5 complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in 8 complaints.

Board action was taken in 9 complaints which were filed in the fourth quarter of 2015.

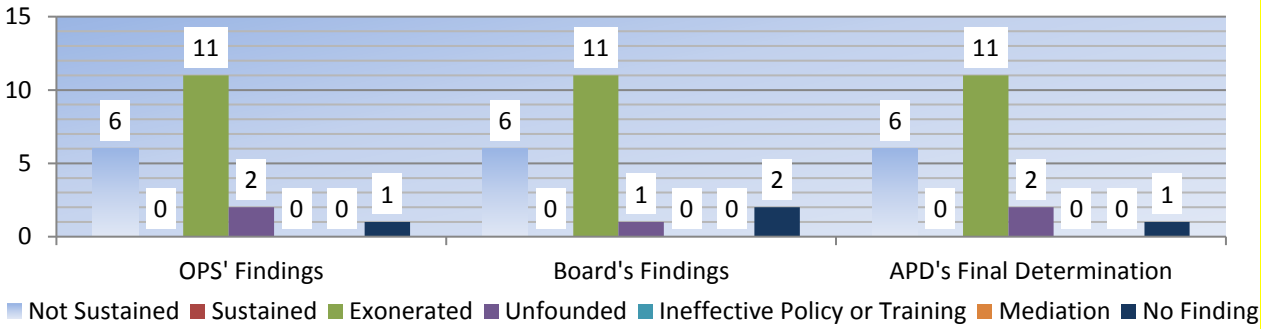


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the fourth quarter of 2015

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 OPS and the Albany Police Department’s final determinations. The following is a summary of those complaints:

CPRB No. 51-13 / OPS No. CC2013-134 [monitor appointed]

- Nature of the Allegation(s):
- 1) **Arrest Authority & Procedures** - An officer threw the complainant to the ground causing him to sustain an injury;
 - 2) **Arrest Authority & Procedures** - The officer stopped the complainant illegally and without cause;
 - 3) **Arrest Authority & Procedures** - Officers presented an invalid search warrant that was signed after the complainant was arrested; *and*
 - 4) **Unprofessional Conduct** - Officers dragged the complainant from the scene of the traffic stop to his residence.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 2) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 3) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
 - 4) **Unfounded** as to the Unprofessional Conduct allegation.

- CPRB Finding(s):
- 1) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 2) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 3) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
 - 4) **No Finding** as to the Unprofessional Conduct allegation.

- APD Final Determination(s):
- 1) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 2) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 3) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
 - 4) **Unfounded** as to the Unprofessional Conduct allegation.

CPRB No. 27-14 / OPS No. CC2014-076 [no monitor appointed]

- Nature of the Allegation(s):
- 1) **Unprofessional Conduct** - An officer was nasty and rude when the complainant went to the South Station to have her landlord arrested for assault; *and*
 - 2) **Unprofessional Conduct** - The officers did not arrest an indicated suspect for an assault and thus failed to perform their duties and to uphold their own ethics;

- 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. 36-14 / OPS No. CC2014-086 [monitor appointed]

- Nature of the Allegation(s):
- 1) **Call Handling** – An officer grabbed complainant by the arm and forcibly prevented her from crossing the street; *and*
 - 2) **Call Handling** – The officer was abrupt in his manner, spoke rudely to the complainant, and demanded her identification at her place of employment following the incident.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Exonerated** as to the Call Handling allegation.

- CPRB Finding(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Exonerated** as to the Call Handling allegation.

- APD Final Determination(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Exonerated** as to the Call Handling allegation.

CPRB No. 38-14 / OPS No. CC2014-091 [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - Officers did not assist the complainant against juveniles who assaulted him;

2) **Call Handling** - The officers refused to arrest the juveniles for causing injuries to the complainant's service dog; *and*

3) **Call Handling** - No report was filed until several months following the incident.

OPS Preliminary Finding(s): 1) **Exonerated** as to the Call Handling allegation;

2) **Exonerated** as to the Call Handling allegation; *and*

3) **Exonerated** as to the Call Handling allegation.

CPRB Finding(s): 1) **Exonerated** as to the Call Handling allegation;

2) **Exonerated** as to the Call Handling allegation; *and*

3) **Exonerated** as to the Call Handling allegation.

APD Final Determination(s): 1) **Exonerated** as to the Call Handling allegation;

2) **Exonerated** as to the Call Handling allegation; *and*

3) **Exonerated** as to the Call Handling allegation.

CPRB No. 39-14 / OPS No. CC2014-093 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - Officers punched the complainant in the face, placed their knees in his back and tased him after he was handcuffed; *and*

3) **Evidence & Property Handling** - The officers took possession of the complainant's cash totaling \$3,500.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the Use of Force allegation; *and*

2) **Not Sustained** as to the Evidence & Property Handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the Use of Force allegation; *and*

2) **Not Sustained** as to the Evidence & Property Handling allegation.

APD Final Determination(s): 1) **Not Sustained** as to the Use of Force allegation; *and*

2) **Not Sustained** as to the Evidence & Property Handling allegation.

CPRB No. 02-15 / OPS No. CC2015-005 [no monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - Officers refused to file a report documenting the assault and sufficiently investigate the incident.

OPS Preliminary Finding(s): 1) **Unfounded** as to the Call Handling allegation.

CPRB Finding(s): 1) **Unfounded** as to the Call Handling allegation.

APD Final Determination(s): 1) **Unfounded** as to the Call Handling allegation.

CPRB No. 07-15 / OPS No. CC2015-018 [monitor appointed]

Nature of the Allegation(s): 1) **Unprofessional Conduct** - APD abused the complainant physically, sexually, emotionally, and mentally via the “teleoffensive program.”

OPS Preliminary Finding(s): 1) **No Finding** as to the Unprofessional Conduct allegation.

CPRB Finding(s): 1) **No Finding** as to the Unprofessional Conduct allegation.

APD Final Determination(s): 1) **No Finding** as to the Unprofessional Conduct allegation.

CPRB No. 25-14 / OPS No. CC2014-066 [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedure** - Another party was the initial aggressor but the complainant was arrested for defending himself;
2) **Unprofessional Conduct** - An officer was rude and had a nasty attitude, and the officer walked away while speaking to a witness. The complainant alleged that the officer’s action was unprofessional; *and*
3) **Unprofessional Conduct** - The officer threatened the complainant’s mother that if he “did not have his gun and badge he will fight.”

OPS Preliminary Finding(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Unprofessional Conduct allegation.

CPRB Finding(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Unprofessional Conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Unprofessional Conduct allegation.

CPRB No. 09-15 / OPS No. CC2015-026 [no monitor appointed]

- Nature of the Allegation(s):
- 1) **Call Handling** - The complainant was assaulted while at the laundromat, at 57 Dove Street. The officer responding failed to make an arrest of the suspected individual, thereby not affording the complainant his right to file a “protection order;” *and*
 - 2) **Call Handling** - The complainant made several 911 calls in relation to this matter but the 911 operator did not assist him.
- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Not Sustained** as to the Call Handling allegation.
- CPRB Finding(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Not Sustained** as to the Call Handling allegation.
- APD Final Determination(s):
- 1) **Exonerated** as to the Call Handling allegation; *and*
 - 2) **Not Sustained** as to the 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 fourth quarter of 2015, the Board received 5 new Grievance Forms from the OPS, in addition to its 571 Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the 5 new Grievance Forms that were filed in the fourth quarter of 2015, no Citizen Complaint Form was filed. Of the 576 Grievance Forms received by the Board since 2008, 154 Citizen Complaint Forms were filed.

MEETINGS

The Board met as a whole two times for the conduct of business during the fourth quarter of 2015. Meetings were held on September 17, 2015 and October 15, 2015. Both of the two 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 fourth quarter, which included: the Board meeting as a whole two times, reviewing 9 complaints and rendering findings for 20 allegation(s) contained in 9 complaints. The 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: March 9, 2017