

City of Albany

CITIZENS' POLICE REVIEW BOARD

Fourth Quarterly Report August 1, 2014 - October 31, 2014

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, 2014 - October 31, 2014

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 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 fourth quarter of 2014:

Mickey Bradley	David Rozen
Marilyn Hammond	Eugene Sarfoh
Maritza Martinez	Reverend Edward B. Smart
Anthony Potenza	Akosua Yeboah

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

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

Vacancies and Re-Appointments

During the fourth quarter of 2014, the Board awaits a letter of reappointment for Mickey Bradley and Eugene Sarfoh. The Board has two (2) vacancies created by former Board members William McCarthy and Anthony Potenza.

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. Nine (9) complaints were presented and reviewed in the fourth 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 fourth quarter of 2014, the Board received nine (9) new complaints in addition to its forty-three (43) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate seven (7) of the nine (9) new complaints. Of the fifty-four (54) complaints before the Board, the Board presented nine (9) complaints for review and rendered findings for the allegation(s) contained in eight (8) complaints. These eight (8) complaints were closed and contained a total of seventeen (17) allegations of misconduct. As to the eight (8) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all eight (8) cases.

In the fourth quarter of 2014, one (1) complaint was reviewed and sent back to OPS for further investigation. The Board took action on **CPRB 6-14 / OPS No. CC2014-025**; this complaint contained two conduct standard allegations in which the Board was unable to render a finding by a majority vote. The Board had concern with the first allegation in which the officers followed the complainant for some distance with their lights off in a high crime area. The Board expressed concern for this maneuver. The Board expressed concern with the second allegation in which the officers lacked discretion in their investigative techniques. The Board is recommending that the Albany Police Department further investigate this case regarding the

aforementioned concerns.

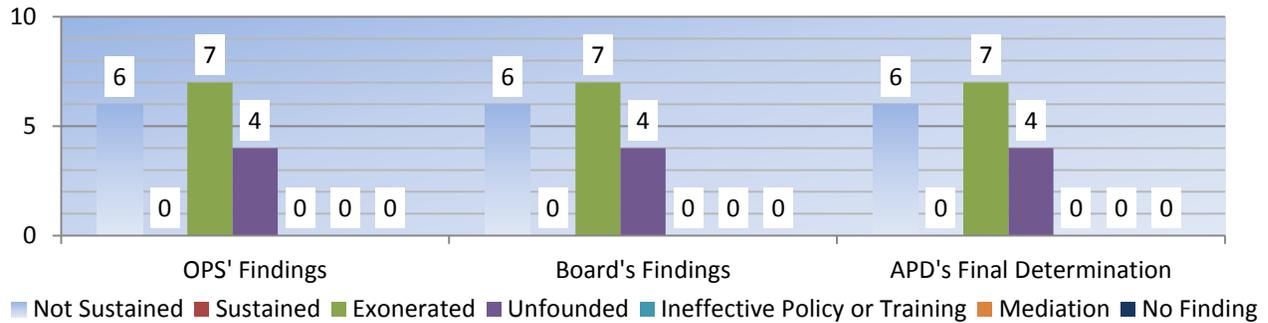


Figure 1: Comparison of Findings Made by the OPS, the Board, and the Albany Police Department during the fourth quarter of 2014

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. 4-14 / OPS No. CC2014-018 [no monitor appointed]

Nature of the Allegation(s): Unprofessional Conduct – During a traffic stop for speeding an officer placed a controlled substance on the top of the complainant's vehicle.

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

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

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

CPRB No. 52-13 / OPS No. CC2013-132 [no monitor appointed]

Nature of the Allegation(s): Unprofessional Conduct – An officer's behavior during a traffic stop was juvenile and unprofessional and the officer threatened the complainant with tickets if the complainant's passenger refused to calm down.

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

CPRB Finding(s): **Exonerated** as to the unprofessional conduct allegation.

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

CPRB No. 46-13 / OPS No. CC2013-124 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – An officer stopped the complainant and asked for identification without probable cause;

2) Unprofessional Conduct – An officer tackled the complainant while the complainant was speaking to another officer; *and*

3) Call Handling – Officers laughed at the complainant while the complainant was being handcuffed.

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

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

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

CPRB Finding(s): 1) **Exonerated** as to the first call handling allegation;

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

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

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

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

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

CPRB No. 34-13 / OPS No. CC2013-092 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling – The officers responded to an anonymous call of a white male with a gun in front of a store. The officer questioned the complainant and left. The officers later returned to the complainant's business, made them stop working and patted them down;

2) Call Handling – An officer asked to search complainant's vehicle; the complainant refused and the officer searched the vehicle anyway; *and*

3) Unprofessional Conduct – An officer stated to the complainant that the complainant could never be mayor.

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

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

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

CPRB No. 32-13 / OPS No. CC2013-083 [no monitor appointed]

Nature of the Allegation(s): Call Handling – A police unit crossed in front of a CDTA bus causing it to stop short.

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. 25-13 / OPS No. CC2013-062 [no monitor appointed]

Nature of the Allegation(s): Call Handling – The complainant claims they were falsely arrested. The complainant was arrested for making threats to bomb the rescue mission.

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. 24-13 / OPS No. CC2013-067 [monitor appointed]

Nature of the Allegation(s): 1) Arrest Authority and Procedure - An officer removed the complainant from their vehicle; the complainant was handcuffed and searched;

2) Arrest Authority and Procedure - An officer followed the complainant for several blocks and detained them for twenty minutes before telling them why; *and*

3) Unprofessional Conduct - The incident made the complainant feel humiliated.

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

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

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

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

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

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

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

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

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

CPRB No. 13-13 / OPS No. CC2013-037 [monitor appointed]

Nature of the Allegation(s): 1) Call Handling - An officer caused damage to the front doorknob;

2) Call Handling - An officer forced the complainant into their apartment without permission and followed the complainant inside;

3) Unprofessional Conduct - Officers caused the complainant's anxiety level to go "through the roof" and made them feel "terrorized";

- 4) Unprofessional Conduct - Officers did not provide the complainant with their names and badge numbers when asked;
- 5) Unprofessional Conduct - Officers arrested the complainant based upon information provided by the complainant's tenant; *and*
- 6) Unprofessional Conduct - An officer twisted the complainant's arm and threw them out of the South Station Police Station because they made racial slurs.

- OPS Preliminary Finding(s):
- 1) **Not Sustained** as to the first call handling allegation;
 - 2) **Not Sustained** as to the second call handling allegation;
 - 3) **Unfounded** as to the first unprofessional conduct allegation;
 - 4) **Not Sustained** as to the second unprofessional conduct allegation;
 - 5) **Exonerated** as to the third unprofessional conduct allegation;
and
 - 6) **Exonerated** as to the fourth unprofessional conduct allegation.

- CPRB Finding(s):
- 1) **Not Sustained** as to the first call handling allegation;
 - 2) **Not Sustained** as to the second call handling allegation;
 - 3) **Unfounded** as to the first unprofessional conduct allegation;
 - 4) **Not Sustained** as to the second unprofessional conduct allegation;
 - 5) **Exonerated** as to the third unprofessional conduct allegation;
and
 - 6) **Exonerated** as to the fourth unprofessional conduct allegation.

- APD Final Determination(s):
- 1) **Not Sustained** as to the first conduct standards allegation; *and*
 - 2) **Not Sustained** as to the second conduct standards allegation.
 - 3) **Unfounded** as to the first unprofessional conduct allegation;
 - 4) **Not Sustained** as to the second unprofessional conduct allegation;

5) **Exonerated** as to the third unprofessional conduct allegation;
and

6) **Exonerated** as to the fourth 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 fourth quarter of 2014, the Board received six (6) new Grievance Forms from the OPS, in addition to its five hundred and thirty-nine (539) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the six (6) new Grievance Forms that were filed in the fourth quarter of 2014, two (2) Citizen Complaint Forms were filed. Of the five hundred and forty-five (545) Grievance Forms received by the Board since 2008, one hundred and fifty-one (151) Complaint Forms were filed.

MEETINGS

The Board met as a whole two (2) times for the conduct of business during the Fourth quarter. Meetings were held on September 11, 2014, and October 30, 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 fourth quarter, which included: the Board meeting as a whole two (2) times, and reviewing and rendering findings for allegation(s) contained in eight (8) 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: October 31, 2014

Approved by the CPRB: (Date)