

# City of Albany

# DRAFT

**First Quarter Report  
November 1, 2017 - January 31, 2018**

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, 2017 - January 31, 2018

**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 First Quarter Report submitted in the year 2018.

## **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 2018:

Larry Becker, Esq.	John T. Evers	Zach Garafalo
Michael Grady	Mark Ingram, JD, PhD	Ivy Morris
Warren Hamilton	Veneilya Harden	Reverend Victor Collier

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

Vice-Chair	Ivy Morris
Secretary	Michael A. Grady

*Vacancies and Re-Appointments*

Mike Grady’s first term ended on October 26, 2017, and his reappointment is pending. The GLC notified City of Albany Mayor Kathy Sheehan and Common Council Member Leah Golby regarding the pending reappointments.

**COMPLAINT REVIEW**

Under Section II, Subsection I of the Board’s Operating Procedures, each of the nine 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.

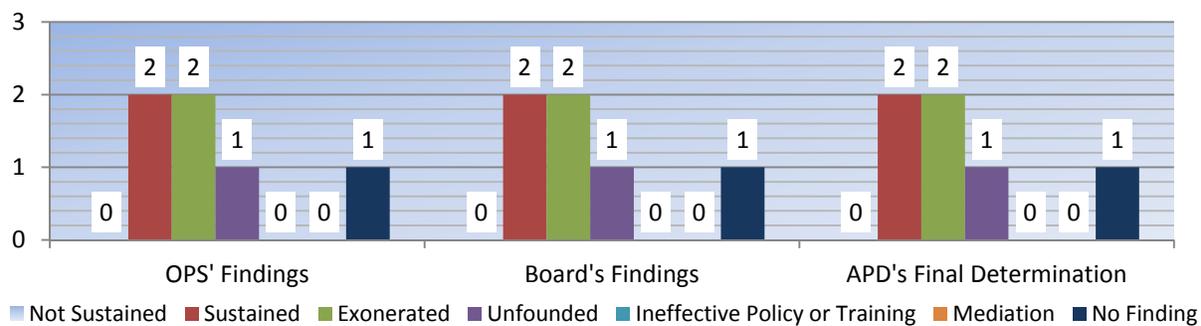
The following Board members were appointed to serve on the Committee on Complaint Review:

November 2017	Larry Becker, Rev. Victor Collier, John T. Evers, Zach Garafalo, Michael Grady, Veneilya Harden, Matt Ingram, Ivy Morris
December 2017	Larry Becker, Rev. Victor Collier, John T. Evers, Zach Garafalo, Michael Grady, Veneilya Harden, Matt Ingram, Ivy Morris
January 2018	Larry Becker, Rev. Victor Collier, John T. Evers, Zach Garafalo, Michael Grady, Veneilya Harden, Matt Ingram, 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 2018, the Board received twelve new complaints in addition to its thirteen active complaints and two suspended complaints. Monitors were appointed to investigate nine of the twelve new complaints. The Board presented five complaints for review and rendered findings for eleven allegation(s) contained in the five complaints. As to the five complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in all five complaints.



**Figure 1:** Comparison of findings made by the OPS, the Board, and the Albany Police Department during the first quarter of 2018.

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. 20-16 / OPS No. CC2017-002** [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedures** - The complainant alleged that he was illegally detained. There is no evidence to indicate he was illegally detained while at 53 Walter St. He stated to OPS that he knew he was free to go and did in fact leave the house at 53 Walter St. that night. The detective stated all occupants were free to go and that all parties did leave. Furthermore, if the complainant did not leave 53 Walter St., there would be no need for a warrant to have been issued nor arrested in the State of South Carolina during the month of June 2016. All information gained from the occupants was freely given to detectives.

2) **Arrest Authority & Procedures** - the complaint alleged an officer edited the store video to indicate that the complainant was resisting arrest and fighting with store security and to charge the complainant with a higher crime.

OPS Preliminary Finding(s): 1) **Unfounded** where the review shows that the act or acts complained of did not occur or were misconstrued.

2) **Unfounded** where the review shows that the act or acts complained of did not occur or were misconstrued.

CPRB Finding(s): 1) **Unfounded** where the review shows that the act or acts complained of did not occur or were misconstrued.

2) **Unfounded** where the review shows that the act or acts complained of did not occur or were misconstrued.

**CPRB No. 16-16 / OPS No. CC2017-018** [monitor appointed]

- Nature of the Allegation(s):
- 1) **Arrest Authority & Procedures** - The complainant alleged he was arrested for no reason. Based on the reported observations of the responding officers and the statement provided by a witness, the complainant was arrested and charged with Assault, 3<sup>rd</sup> degree Strangulation, Resisting Arrest, Criminal Possession of a Weapon, and Menacing in the 2<sup>nd</sup> degree.
  - 2) **Use of Force** - The complainant alleged his head was “banged” on some steps during his arrest. Officers stated the complainant struck his head on the steps while resisting his arrest. An officer stated he advised the complainant that he was under arrest and ordered him to place his hands on top of his head. The complainant attempted to push off the officer, turned and started to retreat back up to the second floor. The officer grabbed onto the complainant’s arm and they fell to the ground. The officer stated the complainant struck his head on the steps during the initial fall that resulted because he pulled away and resisted his lawful arrest. The witness confirmed what was reported by the officer and stated the complainant’s injury occurred because he was fighting and was out of control.
  - 3) **Call Handling** - The complainant alleged his apartment was searched without his consent. Officers all stated the witness provided them consent to search her apartment. The witness stated the officers entered her residence with her permission but does not recall the details of the conversation because it was over a year ago. She insisted that the police had rescued her, that she was involved in a domestic violence situation, and that the police did what they were supposed to do.
  - 4) **Evidence & Property Handling** - The complainant alleged the phones in his apartment were damaged. Officers denied damaging any property belonging to anyone related to this call. The witness stated the complainant had grabbed her phone from her hand and thrown it to the ground. She was not aware of any other phone damaged at the residence, but thought the complainant lost his phone.
  - 5) **Conduct Standards** - The complainant alleged an officer wrote a false statement. The officer stated she in fact wrote on the second page of the DIR at the request of the witness. The officer stated she

only wrote what was relayed to her by the witness and did not make up any of the facts. Once the report was complete, the witness reviewed it and signed it. The witness stated she in fact relayed the events to the officer who wrote the report for her and that it was an accurate description of events.

- OPS Preliminary Finding(s):
- 1) **Unfounded** - where the review shows that the act or acts complained of did not occur.
  - 2) **Sustained** - where the review discloses sufficient facts to prove the allegations made in the complaint.
  - 3) **Unfounded** - where the review shows that the act or acts complained of did not occur.
  - 4) **Not Sustained** - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
  - 5) **Unfounded** - where the review shows that the act or acts complained of did not occur.

- CPRB Finding(s):
- 1) **Unfounded** - where the review shows that the act or acts complained of did not occur.
  - 2) **Sustained** - where the review discloses sufficient facts to prove the allegations made in the complaint.
  - 3) **Unfounded** - where the review shows that the act or acts complained of did not occur.
  - 4) **Not Sustained** - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
  - 5) **Unfounded** - where the review shows that the act or acts complained of did not occur.

**CPRB No. 4-17** [no monitor appointed] -- **Withdrawn**

**CPRB No. 10-17** [no monitor appointed] -- **Withdrawn**

**CPRB No. 11-17** [no monitor appointed] -- **Withdrawn**

## **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 first quarter of 2018, the Board received nine new Grievance Forms from OPS, in addition to its six hundred and fifteen Grievances that were received since the inception of the

Grievance process in 2008. Out of the nine new Grievances that were filed in the first quarter of 2018, three Complaints were filed.

## **MEETINGS**

The Board met as a whole two times for the conduct of business during the first quarter of 2018. Meetings were held on November 19, 2017, and January 18, 2018. The meetings were held at the University at Albany SUNY Downtown Campus. 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 two times, reviewing six complaints and rendering findings for eleven allegation(s) contained in five complaints. The Albany Citizens' Police Review Board continued to work collaboratively with the Albany Police Department.

Respectfully submitted,

Clay Gustave  
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 27, 2018