

City of Albany

Fourth Quarterly Report August 1, 2017 - October 31, 2017

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

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

August 1, 2017 - October 31, 2017

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 2017.

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 2017:

Mickey Bradley	Zach Garafalo	Matt Ingram
Larry Becker, Esq.	Charles Goodbee, Sr.	Ivy Morris
Reverend Victor L. Collier	Michael A. Grady	Veneilya Harden

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

Chair	Mickey Bradley
Vice-Chair	Ivy Morris
Secretary	Michael A. Grady

Vacancies and Re-Appointments

During the fourth quarter of 2017, there were no vacancies.

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the nine (9) 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. Twelve (12) complaints were presented and reviewed in the fourth quarter of 2017.

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

September 2017	Larry Becker, Mickey Bradley, Reverend Victor Collier, Charles Goodbee, Michael Grady, Ivy Morris, Veneilya Harden, Matt Ingram, Zach Garafalo
October 2017	Larry Becker, Mickey Bradley, Reverend Victor Collier, Charles Goodbee, Michael Grady, Ivy Morris, Veneilya Harden, Matt Ingram, Zach Garafalo
August 2017	Larry Becker, Mickey Bradley, Reverend Victor Collier, Charles Goodbee, Michael Grady, Ivy Morris, Veneilya Harden, Matt Ingram, Zach Garafalo

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 2017, the Board received thirteen new complaints in addition to its six active complaints and two suspended complaints. Monitors were appointed to investigate eight of the thirteen new complaints. Of the twenty-one complaints before the Board, Board members presented twelve complaints to the full Board for review at meetings. The Board rendered findings for thirty-one allegations contained in twelve complaints. Twelve complaints were closed and contained a total of thirty-one allegations of misconduct.

As to the twelve complaints that the Board reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in six complaints. One complaint, in addition to the twelve reviewed, was closed with no review.

Board action, aside from voting on complaints, was taken on zero complaints which were filed in the fourth quarter of 2017.

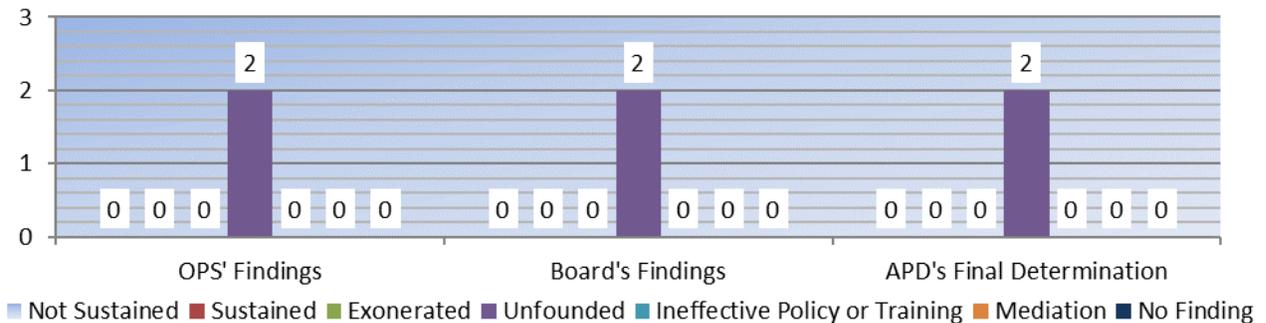


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the fourth quarter of 2017.

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. 08-17 / OPS No. CC2017-020 No Monitor Assigned

Description of the Allegation(s) by OPS:

1) **Call Handling** - The complainant alleged the officer did not address the original nature of the call and instead focused on arresting the complainant. Department records indicated the officer in fact completed the Police Accident Report, which documented the collision.

2) **Call Handling** - The complainant alleged he was arrested, his vehicle was towed and that he had to spend the evening in jail while the [driver of the vehicle that collided with his vehicle was not issued a traffic ticket for an expired inspection sticker. The Accident Report indicated the complainant was struck from behind by another vehicle. A computer check indicated a warrant for Burglary [had been] issued [against] the complainant. The officer confirmed the existence of the warrant and placed the complainant under arrest. The vehicle was towed in accordance with department policy. The complainant was held in overnight, again within department policy, until the following morning when he could be arraigned on the warrant. The officer stated the inspection sticker of the other vehicle was not expired and used his discretion to not issue a ticket.

3) **Call Handling** - where the acts which prove the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged the other [driver] was not issued a ticket for fleeing the scene of an accident. The complainant alleged he had to follow the other driver and flag him down to stop. The other driver explained to the officer he was unsure if contact was made and did pull over when flagged. The officer stated he inspected both vehicles and observed scuff marks and slight scratches. The officer stated, based on the minor nature of the collision and the fact that the vehicles stopped less than two blocks from the initial point of collision, that he did not feel that a “Leaving the Scene” ticket was warranted.

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

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

3) **Exonerated** as to the third call-handling allegation.

CPRB Finding(s): 1) **Unfounded** as to the first call-handling allegation.

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

3) **Exonerated** as to the third call-handling allegation.

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

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

3) **Exonerated** as to the third call-handling allegation.

CPRB No. 05-17 / OPS No. CC2017-014 No Monitor Assigned

Description of the Allegation(s) by OPS:

1) **Call Handling** - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged an officer asked irrelevant questions, undermined the original reporting officer, and tried to deter her from pressing charges. The officer stated the complainant wanted to report new allegations against her roommate, not repeat allegations made in the previously filed report. He stated he was asking questions to determine if what was in any texts or emails qualified as aggravated harassment according to the NYS Penal Law. The officer stated that had there been enough evidence presented to him to qualify as “Aggravated Harassment” he would have completed a Standard Incident Report. Police officers conduct preliminary investigations when presented with allegations of criminal activity. Part of the investigation process involves the interviewing of persons and the collection of information in order to determine if the required elements of a crime exist or not. The officer must determine if the prosecutorial merit of the allegation is sufficient to substantiate the generation of a Police Report. The Aggravated Harassment statute has numerous subsections, but all state there needs to be a “threat.” Based on the phone call to [South Street Station] SSTA on 3/13/17, the officer’s statement, and based on the complainant’s complaint, she stated she had emails, but they were not shown. One cannot file a report by just saying they were “threatened” or “harassed;” the court needs specifics.

2) **Conduct Standards** - where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged an officer was rude and unprofessional. The officer denied being rude or unprofessional. There are no known witnesses to said incident.

3) **Call Handling** - where the acts which provided the basis of the complaint occurred, but the review shows that such acts were proper. The complainant alleged she asked an officer for his business card in which he claimed he did not have one in his possession. The officer stated the complainant “did ask for my business card. I did not provide a card to the complainant because I did not have one in my immediate possession. I did have other cards in the squad room, however I did not feel it would have been responsible to leave the desk unattended. I did, however, provide the complainant my name and badge number.” Department policy dictates that an officer provide his name and badge number when asked, which the officer stated he complied with.

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

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

3) **Exonerated** as to the call-handling allegation

CPRB Finding(s):

1) **Not Sustained** as to the call-handling allegation

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

3) **Exonerated** as to the call-handling allegation

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

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

3) **Exonerated** as to the call-handling allegation

DEFINITION OF CPRB FINDINGS

Under Section 42-344A of Chapter 42, Part 33 of the Albany City Code, the Board shall, after review and deliberation of an investigation, 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 2008, then 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.

COMPLAINT SUMMARIES AND STATISTICS

During the fourth quarter of 2017, the Board received four (4) new Grievance Forms from the OPS, in addition to the six hundred and fifteen (615) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the four (4) new Grievance Forms that were filed in the fourth quarter of 2017, there were no citizen Complaint Forms filed. Of the six hundred and fifteen (615) Grievance Forms received by the Board since 2008, one hundred and fifty-eight (159) Complaint Forms were filed.

Board action was not taken on any of the Grievances filed in the fourth quarter of 2017.

MEETINGS

The Board met as a whole met three (3) times for the conduct of business during the fourth quarter of 2017. Meetings were held on September 21, 2017, and October 19, 2017, and November 9, 2017. Each of the three (3) meetings were held at the University at Albany Downtown Campus, Levitt Room in Milne Hall (M120), 135 Washington Avenue. 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 three (3) times, reviewing five (5) complaints and rendering findings for six (6) allegation(s) contained in two (2) complaints. The Albany 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: ~~January~~ ~~April~~ 183, 20178