

# City of Albany

## CITIZENS' POLICE REVIEW BOARD

### **First Quarterly Report November 1, 2015 - January 31, 2016**

Submitted by:  
The Government Law Center of Albany Law School  
on behalf of  
The City of Albany Citizens' Police Review Board



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

November 1, 2015 - January 31, 2016

**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 Quarterly Report so submitted in the year 2016.

## **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 2016:

Larry Becker, Esq.	Mickey Bradley	Charles Goodbee, Sr.
Michael Grady	Maritza Martinez	Ivy Morris
Kerry Mulligan	David A. Rozen	*Reverend Edward B. Smart (term expired)

\*Reverend Edward B. Smart’s second term ended on October 26, 2015, but he remained as a general member until replaced.

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

Chair	Mickey Bradley	<i>*beginning January 21, 2016</i>
Vice-Chair	David A. Rozen	<i>*until January 21, 2016</i>
	Ivy S. Morris	<i>*beginning January 21, 2016</i>
Secretary	Mickey Bradley	<i>*until January 21, 2016</i>
	Michael A. Grady	<i>*beginning January 21, 2016</i>

*Vacancies and Re-Appointments*

Maritza Martinez’s first term ended on October 26, 2015, and her reappointment is pending. Kerry Mulligan’s first term ended on October 26, 2015, and her reappointment is pending. Reverend Edward B. Smart’s second term expired on October 26, 2015, resulting in one mayoral Board vacancy. The GLC notified the City of Albany Mayor Kathy Sheehan and Common Council President Carolyn McLaughlin regarding the pending appointment and reappointments.

**COMPLAINT REVIEW**

Under Section II, Subsection I of the Board’s Operating Procedures, each of the eight (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. Eight (8) complaints were presented and reviewed in the first quarter of 2016.

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

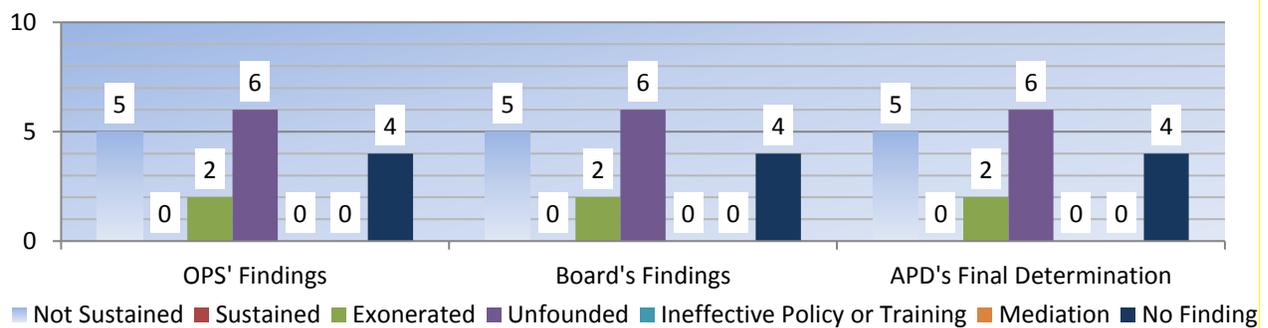
November 2015	Larry Becker, Mickey Bradley, Michael Grady, Ivy Morris, Kerry Mulligan, David Rozen
December 2015	Larry Becker, Charles Goodbee, Michael Grady, Maritza Martinez, Ivy Morris, Kerry Mulligan,

**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 first quarter of 2016, the Board received six (6) new complaints in addition to its forty-three (43) active complaints and nine (9) suspended complaints. Monitors were appointed to investigate three (3) of the six (6) new complaints. Of the forty-nine (49) complaints before the Board, the Board presented eight (8) complaints for review and rendered findings for the sixteen (16) allegation(s) contained in eight (8) complaints. Eight (8) of these eight (8) complaints were closed and contained a total of sixteen (16) 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) complaints.

Board action, aside from voting on complaints, was taken in zero (0) complaints which were filed in the first quarter of 2016.



**Figure 1:** Comparison of findings made by the OPS, the Board, and the Albany Police Department during the first quarter of 2016.

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. 11-14 / OPS No. CC2014-035** [monitor appointed]

- Nature of the Allegation(s):
- 1) **Use of Force** - the complaint alleged an officer pushed the complainant's head against the glass window and he sustained facial injuries;
  - 2) **Conduct Standards** - 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; *and*
  - 3) **Conduct Standards** - the complaint alleged the complainant was denied medical attention.

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

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

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

CPRB Finding(s):

1) **Unfounded** as to the use of force allegation;

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

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

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

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

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

**CPRB No. 32-14 / OPS No. CC2014-074** [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - On September 24, 2015, the Complainant met with OPS regarding complainant's complaint and wished to not pursue the complaint as the allegation was addressed through a separate OPS investigation/CPRB complaint; *and*

2) **Use of Force** - On September 24, 2015, Complainant met with OPS regarding complainant's complaint and wished to not pursue the complaint as the allegation was addressed through a separate OPS investigation/CPRB complaint.

OPS Preliminary Finding(s): 1) **No Finding** as to the call handling allegation; *and*

2) **No Finding** as to the use of force allegation.

CPRB Finding(s):

1) **No Finding** as to the call handling allegation; *and*

2) **No Finding** as to the use of force allegation.

APD Final Determination(s): 1) **No Finding** as to the call handling allegation; *and*

2) **No Finding** as to the use of force allegation.

**CPRB No. 03-15 / OPS No. CC2015-006** [no monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - officers arrived to the scene and failed to properly investigate and make an arrest; *and*

2) **Conduct Standards** - complainant observed officers inside the patrol unit laughing at him.

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

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

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

**CPRB No. 06-15 / OPS No. CC2015-014** [no monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority and Procedures** - The complainant stopped for failing to signal and believed it to be a trumped up charge and was quizzed about what the complainant was doing;  
2) **Use of Force** - The complainant was dragged out of a vehicle and handcuffed and both vehicle and person was searched without consent; and  
3) **Conduct Standards** - The complainant threatened by an officer who stated if complainant was a younger person things would have gone differently.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation;  
2) **Not Sustained** as to the use of force allegation; *and*  
3) **Not Sustained** as to the conduct standards allegation.

CPRB Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation;  
2) **Not Sustained** as to the use of force allegation; *and*  
3) **Not Sustained** as to the conduct standards allegation.

APD Final Determination(s): 1) **Not Sustained** as to the arrest authority and procedures allegation;

2) **Not Sustained** as to the use of force allegation; *and*

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

**CPRB No. 12-15 / OPS No. CC2015-031** [no monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - The complainant alleges improper conduct on part of the members of the NYS Police; *and*

2) **Call Handling** - The complainant alleges two officers of the APD stopped and questioned the complainant on March 13, 2013, regarding jumping a fence at the library.

OPS Preliminary Finding(s): 1) **No Finding** as to the call handling allegation; *and*

2) **Unfounded** as to the use of force allegation.

CPRB Finding(s): 1) **No Finding** as to the call handling allegation; *and*

2) **Unfounded** as to the use of force allegation.

APD Final Determination(s): 1) **No Finding** as to the call handling allegation; *and*

2) **Unfounded** as to the use of force allegation.

**CPRB No. 15-15 / OPS No. CC2015-024** [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedures** - The complaint alleged the complainant had done nothing wrong and was only inside 400 Central Ave. to use the restroom and get warm; *and*

2) **Use of Force** - The complaint alleged an officer punched the complainant in the forehead and struck him on top of his head with a baton.

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

2) **Exonerated** as to the use of force allegation.

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

2) **Exonerated** as to the use of force allegation.

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

2) **Exonerated** as to the use of force allegation.

**CPRB No. 18-15 / OPS No. CC2015-037** [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority and Procedures** - The complainant alleged the complainant was told to strip, and one officer stood behind him with a Taser pointed at his right leg, when two more officers stood on both sides of him. A fourth officer believed to be the arresting officer stood directly behind, and a detective took a pen and stuck and twisted the pen inside the complainant's anal cavity.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation.

CPRB Finding(s): 1) **Not Sustained** as to the arrest authority and procedures allegation.

APD Final Determination(s): 1) **Not Sustained** as to the arrest authority and procedures allegation.

**CPRB No. 22-15 / OPS No. CC2015-031** [no monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - The complainant alleges that APD refused to relay his complaint to NYS Police; *and*

2) **Call Handling** - Two APD officers stopped and questioned the complainant regarding jumping a fence at the library.

OPS Preliminary Finding(s): 1) **No Finding** as to the conduct standards allegation; *and*

2) **Unfounded** as to the call handling allegation.

CPRB Finding(s): 1) **No Finding** as to the conduct standards allegation; *and*

2) **Unfounded** as to the call handling allegation.

APD Final Determination(s): 1) **No Finding** as to the conduct standards allegation; *and*

2) **Unfounded** 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 first quarter of 2016, the Board received three (3) new Grievance Forms from the OPS, in addition to its five hundred and seventy-seven (577) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the three (3) new Grievance Forms

that were filed in the fourth quarter of 2015, one (1) citizen Complaint Form was filed. Of the five hundred and eighty (580) Grievance Forms received by the Board since 2008, one hundred and fifty-five (155) Complaint Forms were filed.

## **MEETINGS**

The Board met as a whole two (2) times for the conduct of business during the first quarter of 2016. Meetings were held on November 12, 2015 and December 10, 2015. Both of the meetings were held at the University at Albany SUNY Downtown Campus, Levitt Room in Milne Hall, 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 first quarter, which included: the Board meeting as a whole two (2) times, reviewing eight (8) complaints and rendering findings for seventeen (17) allegation(s) contained in eight (8) 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: March 9, 2017