

City of Albany

Second Quarterly Report February 1, 2017 - April 30, 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

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

February 1, 2017 - April 30, 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 Second Quarterly Report so submitted in the year 2017.

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 second quarter of 2017:

Larry Becker, Esq.
Zachary Garafalo
Veneilya Harden

Mickey Bradley
Charles Goodbee, Sr.
Matthew Ingram

Reverend Dr. Victor Collier
Michael A. Grady
Ivy Morris

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

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

Vacancies and Re-Appointments

Zachary Garafalo's original term ended on October 26, 2016, and his reappointment is pending. The GLC notified City of Albany Mayor Kathy Sheehan and Common Council President Carolyn McLaughlin regarding the pending reappointment.

COMPLAINT REVIEW

Under 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. Five (5) complaints were presented and reviewed in the second quarter of 2017.

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

March 2017	Larry Becker, Mickey Bradley, Zachary Garafalo, Charles Goodbee, Sr., Ivy Morris
April 2017	Larry Becker, Mickey Bradley, 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 second quarter of 2017, the Board received 3 new complaints in addition to its 19 active complaints and 2 suspended complaints. Monitors were appointed to investigate 2 new complaints. Of the 22 complaints before the Board, the Board presented 5 complaints for review and rendered findings for 10 allegations contained in 5 of the 5 complaints. Five (5) of these 5 complaints were closed and contained a total of 18 allegations of misconduct. In addition to the 5 complaints reviewed and closed, 5 complaints were closed with no review, and 1 complaint was mediated. 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 a total of 3 complaints. In total, 11 complaints were closed during the second quarter of 2017.

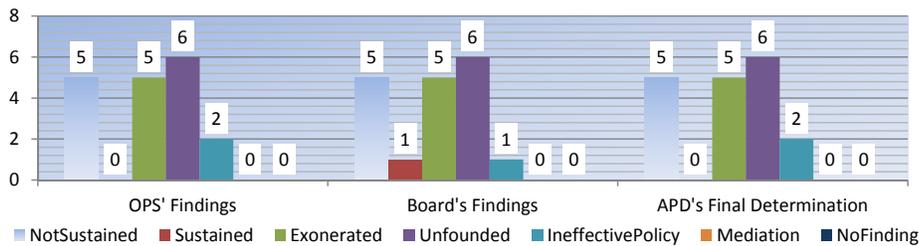


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the second quarter of 2017.

Commented [MM1]: APD's total findings (17) are one less than the total findings (18) for the others. Is this correct?

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. 16-12 / OPS No. CC2012-041 [monitor appointed]

- Nature of the Allegation(s):
- 1) **Evidence & Property Handling** - the complaint alleged that a detective seized two vehicles from the complainant's residence without a warrant to do so;
 - 2) **Conduct Standards** - the complainant alleged the officers littered her home while executing the search warrant. The complainant also alleged the officers dumped a garbage can on top of her personal files, and placed a sexually explicit item on her bed with the intent to humiliate her. Additionally, the complainant alleged that the detective grabbed her phone from her when she attempted to contact her attorney;
 - 3) **Call Handling** - the complainant alleged that the detective refused to provide her with a copy of the warrant return; *and*
 - 4) **Conduct Standards** - the complainant alleged the Detective went above and beyond his duty by spending an inordinate amount of time at her brother's trial in Rensselaer County Court. The complainant also alleged that the detective was either harassing her and her family, or he was being compensated unjustly because his presence was unnecessary.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the evidence & property handling allegation;
 - 2) **Not Sustained** as to the conduct standards allegation;

3) **Exonerated** as to the call handling allegation; *and*

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

CPRB Finding(s): 1) **Exonerated** as to the evidence & property handling allegation;

2) **Not Sustained** as to the conduct standards allegation;

3) **Exonerated** as to the call handling allegation; *and*

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

APD Final Determination(s): 1) **Exonerated** as to the evidence & property handling allegation;

2) **Not Sustained** as to the conduct standards allegation;

3) **Exonerated** as to the call handling allegation; *and*

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

CPRB No. 24-12 / OPS No. CC2012-054 [no monitor appointed]

Nature of the Allegation(s): 1) **Evidence & Property Handling** – the complainant alleged that his vehicle was seized from his sister’s residence without a warrant to do so;

2) **Conduct Standards** - the complainant alleged that his sister had several conversations with a detective regarding the release of his vehicle to her, and the detective refused to do so; *and*

3) **Conduct Standards** - the complainant alleges that the detective improperly attended his parole hearing regarding his alleged connection with his nephew’s criminal activity.

OPS Preliminary Finding(s): 1) **Exonerated** as to the evidence & property handling allegation;

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

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

CPRB Finding(s): 1) **Exonerated** as to the evidence & property handling allegation;

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

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

APD Final Determination(s): 1) **Exonerated** as to the evidence & property handling allegation;
2) **Unfounded** as to the conduct standards allegation; *and*
3) **Unfounded** as to the conduct standards allegation.

CPRB No. 32-15 / OPS No. CC2015-055 [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - the complainant alleged being approached while playing his guitar;
2) **Call Handling** - the complainant alleged the officer told him he needed to have a permit, and he was ticketed for disorderly conduct; *and*
3) **Conduct Standards** - the complainant alleged the officer was verbally abusive and demeaning.

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

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

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

CPRB No. 33-15 / OPS No. CC2015-055 [no monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - the complainant alleged trying to ask what ordinance was being violated and the officers lunged at the complainant and tried to grab the complainant's camera and accused the complainant of being confrontational;

2) **Call Handling** - the complainant alleged being detained and humiliated by police for 30 minutes;

3) **Call Handling** - the complainant alleged being detained and humiliated by police for 30 minutes;

4) **Conduct Standards** - the complainant alleged requesting identification from all officers on the scene, and complainant was not given a reason why the complainant was being detained; no officers provided identification; *and*

5) **Call Handling** - the complainant alleged that the officers directed the complainant to ask for papers for the complainant's dog in an effort to harass complainant.

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

2) **Exonerated** as to the call handling allegation;

3) **Not Sustained** as to the call handling allegation;

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

5) **Ineffective Policy or Training** 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;

3) **Not Sustained** as to the call handling allegation;

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

5) **Ineffective Policy or Training** 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;

3) **Not Sustained** as to the call handling allegation;

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

5) **Ineffective Policy or Training** as to the call handling allegation.

CPRB No. 15-16 / OPS No. CC2016-028 [monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - the complainant alleged that an officer made derogatory comments toward the complainant and was aggressive in nature;

2) **Biased-Based Policing (Gender Identity)** - the complainant alleged that the officer made derogatory comments about the complainant being transgender; *and*

3) **Conduct Standards** - the complainant alleged that on 8/17/16, during a fire call, officers and firefighters were more concerned about invading the complainant's home than the fire.

OPS Preliminary Finding(s): 1) **Unfounded** as to the conduct standards allegation;

2) **Not Sustained** as to the biased-based policing allegation; *and*

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

CPRB Finding(s): 1) **Unfounded** as to the conduct standards allegation;

2) **Not Sustained** as to the biased-based policing allegation; *and*

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

APD Final Determination(s): 1) **Unfounded** as to the conduct standards allegation;

2) **Not Sustained** as to the biased-based policing allegation; *and*

3) **Unfounded** as to the conduct standards 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 second quarter of 2017, the Board received 4 new Grievance Forms from the OPS, in addition to its 599 Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the 4 new Grievance Forms that were filed in the second quarter of 2017, 0 citizen Complaint Forms were filed. Of 603 Grievance Forms received by the Board since 2008, 158 Complaint Forms were filed.

MEETINGS

The Board met as a whole 2 times for the conduct of business during the second quarter of 2017. Meetings were held on March 9, 2017, and April 13, 2017. 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 second quarter, which included: the Board meeting as a whole 2 times, reviewing 6 complaints and rendering findings for 7 allegations contained in 6 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: 10/19/17