

City of Albany

DRAFT

**Third Quarterly Report
May 1, 2015 - July 31, 2015**

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

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

May 1, 2015 - July 31, 2015

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 Third Quarterly Report so submitted in the year 2015.

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 Albany Police Department 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 third quarter of 2015:

Ivy Morris
Mickey Bradley
Larry Becker, Esq.

David A. Rozen
Eugene Sarfoh*
Reverend Edward B. Smart

Charles Goodbee, Sr.
Maritza Martinez

*Eugene Sarfoh resigned on June 11, 2015.

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

Chair	Reverend Edward B. Smart
Vice-Chair	David A. Rozen
Secretary	Mickey Bradley

Vacancies and Re-Appointments

Eugene Sarfoh resigned from the Board, effective June 11, 2015, resulting in one Mayoral vacancy during the third quarter of 2015. There also remained one Common Council vacancy during the third quarter of 2015, following Akosua Yeboah's resignation on February 6, 2015.

COMPLAINT REVIEW

Pursuant to 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. Ten (10) complaints were presented and reviewed in the third quarter of 2015.

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

May 2015	Larry Becker, Mickey Bradley, Charles Goodbee, Sr., Eugene Sarfoh
June 2015	Larry Becker, Charles Goodbee, Sr., Maritza Martinez, Eugene Sarfoh,

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 third quarter of 2015, the Board received thirteen (13) new complaints in addition to its thirty-two (32) active complaints and ten (10) suspended complaints. Monitors were appointed to investigate eight (8) of the thirteen (13) new complaints. Of the forty-five (45) complaints before the Board, the Board presented ten (10) complaints for review and rendered findings for the thirty-eight (38) allegation(s) contained in ten (10) complaints. Ten (10) of these ten (10) complaints were closed and contained a total of thirty-eight (38) allegations of misconduct. As to the ten (10) complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in four (4) cases.

Board action was taken in ten (10) complaints, which were filed in the third quarter of 2015.

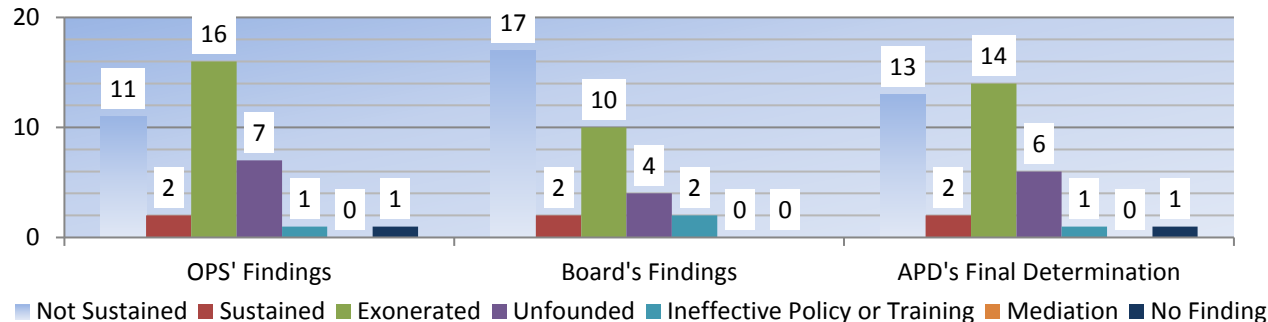


Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the third quarter of 2015

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 OPS and the Albany Police Department’s final determinations. The following is a summary of those complaints:

CPRB No. 50-13 / OPS No. CC2013-131 [monitor appointed]

- Nature of the Allegation(s):
- 1) **Call Handling** - The complainant was denied a phone call and water while at Albany Medical Center following his arrest;
 - 2) **Arrest Authority & Procedures** - The traffic stop was unlawful and violated his civil rights;
 - 3) **Use of Force** - The complainant was punched, kicked, kneed, shot with a Taser, and pulled forcibly out of his car while screaming loudly for “help”;
 - 4) **Arrest Authority & Procedures** – The officers broke the complainant’s glasses during his arrest; *and*
 - 5) **Arrest Authority & Procedures** - The complainant was not read his Miranda rights at any point during his arrest.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the Call Handling allegation.
 - 2) **Exonerated** as to the Arrest Authority & Procedures allegation;
 - 3) **Exonerated** as to the Use of Force allegation;
 - 4) **Not Sustained** as to the Arrest Authority & Procedures allegation; *and*

5) **Exonerated** as to the Arrest Authority & Procedures allegation.

CPRB Finding(s):

1) **Exonerated** as to the Call Handling allegation;

2) **Exonerated** as to the Arrest Authority & Procedures allegation;

3) **Exonerated** as to the Use of Force allegation;

4) **Not Sustained** as to the Arrest Authority & Procedures allegation; *and*

5) **Not Sustained** as to the Arrest Authority & Procedures allegation.

APD Final Determination(s): 1) **Exonerated** as to the Call Handling allegation;

2) **Exonerated** as to the Arrest Authority & Procedures allegation;

3) **Exonerated** as to the Use of Force allegation;

4) **Not Sustained** as to the Arrest Authority & Procedures allegation; *and*

5) **Exonerated** as to the Arrest Authority & Procedures allegation.

CPRB No. 13-14 / OPS No. CC2014-038 [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - An officer was held “brutally” and pushed out of the Center Station.

OPS Preliminary Finding(s): 1) **No Finding** as to the Call Handling allegation.

CPRB Finding(s): 1) **Not Sustained** as to the Call Handling allegation.

APD Final Determination(s): 1) **No Finding** as to the Call Handling allegation.

CPRB No. 20-14 / OPS No. CC2014-058 [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedure** - The complainant was harassed by officers and handcuffed without reason;

2) **Unprofessional Conduct** - Officers threatened the use of the Taser despite his cooperative behavior; *and*

3) **Use of Force** – The complainant’s handcuffs were painful and left marks on his wrists.

OPS Preliminary Finding(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Unfounded** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Use of Force allegation.

CPRB Finding(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Unfounded** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Use of Force allegation.

APD Final Determination(s): 1) **Exonerated** as to the Arrest Authority & Procedure allegation;
2) **Unfounded** as to the Unprofessional Conduct allegation; *and*
3) **Not Sustained** as to the Use of Force allegation.

CPRB No. 21-14 & 22-14 / OPS No. CC2014-059 [monitor appointed]

Nature of the Allegation(s): 1) **Call Handling** - The complainant believes that the police response time to her 911 call was too long;

2) **Call Handling** – The complainant needed medical attention and an ambulance took too long, or 20 minutes, to arrive;

3) **Unprofessional Conduct** - The female officer harassed the male complainant and called him derogatory names. The female officer was aggressive towards her and wouldn't listen to what she had to say;

4) **Arrest Authority & Procedure** - The complainant was unlawfully arrested;

5) **Use of Force** - The officer forcibly tried to interlock her already injured finger while she was being handcuffed and ignored the complainant when she complained;

6) **Unprofessional Conduct** - The male complainant was being targeted by APD; *and*

7) **Call Handling** - The complainant was not allowed to enter his apartment;

OPS Preliminary Finding(s): 1) **Exonerated** as to the Call Handling allegation;

- 2) **Unfounded** as to the Call Handling allegation;
- 3) **Not Sustained** as to the Unprofessional Conduct allegation;
- 4) **Unfounded** as to the Arrest Authority & Procedure allegation;
- 5) **Not Sustained** as to the Use of Force allegation;
- 6) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
- 7) **Unfounded** as to the Call Handling allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the Call Handling allegation;
- 2) **Unfounded** as to the Call Handling allegation;
- 3) **Not Sustained** as to the Unprofessional Conduct allegation;
- 4) **Unfounded** as to the Arrest Authority & Procedure allegation;
- 5) **Not Sustained** as to the Use of Force allegation;
- 6) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
- 7) **Not Sustained** as to the Call Handling allegation.

APD Final Determination(s): 1) **Exonerated** as to the Call Handling allegation;

- 2) **Unfounded** as to the Call Handling allegation;
- 3) **Not Sustained** as to the Unprofessional Conduct allegation;
- 4) **Unfounded** as to the Arrest Authority & Procedure allegation;
- 5) **Not Sustained** as to the Use of Force allegation;
- 6) **Not Sustained** as to the Unprofessional Conduct allegation; *and*
- 7) **Unfounded** as to the Call Handling allegation.

CPRB No. 40-13 / OPS No. CC2013-098 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - An officer pushed complainant into the side of a building causing her to hit her head and arm. The complainant also was threatened with mace and a baton;

2) **Arrest Authority & Procedures** - The complainant's arrest record is false and her rights were violated;

3) **Conduct Standards** - When the complainant attempted to enter her home to retrieve her ID, she was not allowed to and was threatened with mace and a baton; *and*

4) **Call Handling** - The complainant was upset that no female officer was available to handcuff her. The complainant requested medical attention and was denied; the officers did not allow her to speak to her son.

OPS Preliminary Finding(s): 1) **Exonerated** as to the Use of Force allegation;

2) **Unfounded** as to the Arrest Authority & Procedures allegation;

3) **Not Sustained** as to the Conduct Standards allegation; *and*

4) **Exonerated** as to the Call Handling allegation.

CPRB Finding(s):

1) **Not Sustained** as to the Use of Force allegation;

2) **Unfounded** as to the Arrest Authority & Procedures allegation;

3) **Not Sustained** as to the Conduct Standards allegation; *and*

4) **Ineffective policy or training** as to the Call Handling allegation.

APD Final Determination(s): 1) **Exonerated** as to the Use of Force allegation;

2) **Unfounded** as to the Arrest Authority & Procedures allegation;

3) **Not Sustained** as to the Conduct Standards allegation; *and*

4) **Exonerated** as to the Call Handling allegation.

CPRB No. 41-13 / OPS No. CC2013-099 [no monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - Officers maced the complainant, tried to throw her to the ground, grabbed her wrist with such force that it was broken, dragged the complainant down the stairs to the police vehicle, and later dragged her from the vehicle into the police station;

- 2) **Arrest Authority & Procedures** - An officer forced his way into the complainant's home when she had closed the door;
- 3) **Conduct Standards** – The officers grabbed the complainant's wrist and used profanity towards her; *and*
- 4) **Call Handling** – The officers refused the complainant medical attention when she requested it; the complainant was told that she was being taken directly to booking;

OPS Preliminary Finding(s):

- 1) **Exonerated** as to the Use of Force allegation;
- 2) **Unfounded** as to the Arrest Authority & Procedures allegation;
- 3) **Not Sustained** as to the Conduct Standards allegation; *and*
- 4) **Exonerated** as to the Call Handling allegation.

CPRB Finding(s):

- 1) **Not Sustained** as to the Use of Force allegation;
- 2) **Not Sustained** as to the Arrest Authority & Procedures allegation;
- 3) **Not Sustained** as to the Conduct Standards allegation; *and*
- 4) **Not Sustained** as to the Call Handling allegation.

APD Final Determination(s):

- 1) **Exonerated** as to the Use of Force allegation;
- 2) **Unfounded** as to the Arrest Authority & Procedures allegation;
- 3) **Not Sustained** as to the Conduct Standards allegation; *and*
- 4) **Exonerated** as to the Call Handling allegation.

CPRB No. 18-14 / OPS No. CC2014-054 [no monitor appointed]

Nature of the Allegation(s):

- 1) **Evidence & Property Handling** - Officers took a bottle of rum from the complainant and poured it out into the street;
- 2) **Evidence & Property Handling** - An officer took the complainant's cell phone and removed a photograph of said officer pouring out the liquor; *and*
- 2) **Use of Force** - An officer used profanity, slapped the complainant's dinner from his hand, and tackled him to the ground.

The complainant sustained injuries to his face and nose after he was handcuffed.

- OPS Preliminary Finding(s):
- 1) **Sustained** as to the Evidence & Property Handling allegation;
 - 2) **Not Sustained** as to the Evidence & Property Handling allegation; *and*
 - 3) **Not Sustained** as to the Use of Force allegation.

- CPRB Finding(s):
- 1) **Sustained** as to the Evidence & Property Handling allegation;
 - 2) **Not Sustained** as to the Evidence & Property Handling allegation; *and*
 - 3) **Not Sustained** as to the Use of Force allegation.

- APD Final Determination(s):
- 1) **Sustained** as to the Evidence & Property Handling allegation;
 - 2) **Not Sustained** as to the Evidence & Property Handling allegation; *and*
 - 3) **Not Sustained** as to the Use of Force allegation.

CPRB No. 34-14 / OPS No. CC2014-069 [monitor appointed]

- Nature of the Allegation(s):
- 1) **Call Handling** - Officers questioned and demanded I.D. from the complainant while he sat on a stoop two doors down from his residence;
 - 2) **Use of Force** - An officer grabbed the complainant's arm and twisted it while grabbing the complainant's wallet from his hand while a second officer pushed and shoved him;
 - 3) **Use of Force** - An officer placed the complainant in handcuffs; *and*
 - 4) **Unprofessional Conduct** - The second officer called the complainant derogatory names, displayed a tough guy persona, and became more aggressive after reviewing the complainant's criminal record.

- OPS Preliminary Finding(s):
- 1) **Exonerated** as to the Call Handling allegation;
 - 2) **Not Sustained** as to the Use of Force allegation;

- 3) **Ineffective Policy or Training** as to the Use of Force allegation; *and*
- 4) **Not Sustained** as to the Unprofessional Conduct allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the Call Handling allegation;
- 2) **Not Sustained** as to the Use of Force allegation;
- 3) **Ineffective Policy or Training** as to the Use of Force allegation; *and*
- 4) **Not Sustained** as to the Unprofessional Conduct allegation.

APD Final Determination(s): 1) **Exonerated** as to the Call Handling allegation;

- 2) **Not Sustained** as to the Use of Force allegation;
- 3) **Ineffective Policy or Training** as to the Use of Force allegation; *and*
- 4) **Not Sustained** as to the Unprofessional Conduct allegation.

CPRB No. 35-14 / OPS No. CC2014-079 [no monitor appointed]

Nature of the Allegation(s):

- 1) **Arrest Authority & Procedures** – an officer removed a wallet from the complainant’s person and recorded information without consent; *and*
- 2) **Unprofessional Conduct** – an officer called the complainant an idiot and refused to tell the complainant if he was being arrested.

OPS Preliminary Finding(s):

- 1) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
- 2) **Sustained** as to the Unprofessional Conduct allegation.

CPRB Finding(s):

- 1) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
- 2) **Sustained** as to the Unprofessional Conduct allegation.

APD Final Determination(s):

- 1) **Exonerated** as to the Arrest Authority & Procedures allegation; *and*
- 2) **Sustained** as to the 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 miss an opportunity to have their complaint reviewed by the Board. The Office of Professional Standards (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 third quarter of 2015, the Board received seven (7) new Grievance Forms from the OPS, in addition to its five hundred and sixty-four (564) Grievance Forms that were received since the inception of the Grievance Form process in 2008. Out of the seven (7) new Grievance Forms that were filed in the third quarter of 2015, no (0) citizen Complaint Form was filed. Of the five hundred and seventy-one (571) Grievance Forms received by the Board since 2008, one hundred and fifty-three (153) Complaint Forms were filed.

MEETINGS

The Board met as a whole two (2) times for the conduct of business during the third quarter of 2015. Meetings were held on May 14, 2015 and June 11, 2015. Both of the two (2) meetings were held at the GWU the Center, 274 Washington Avenue, 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 productive third quarter, which included: the Board meeting as a whole two (2) times and reviewing ten (10) complaints and rendering findings for allegation(s) contained in ten (10) complaints. The 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

Dated: August 1, 2015

Approved by the CPRB: September 8, 2016