City of Albany

CITIZENS' POLICE REVIEW BOARD

Second Quarterly Report
February 1, 2016 - April 30, 2016

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

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

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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 2016.

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 second quarter of 2016:

Mickey Bradley	Michael A. Grady	Kerry Mulligan
Larry Becker, Esq.	Maritza Martinez	David A. Rozen
Charles Goodbee, Sr.	Ivy Morris	Reverend Victor L. Collier

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

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

Vacancies and Re-Appointments

During the second quarter of 2016, Board member David Rozen tendered his resignation to the GLC and the Common Council, resulting in a Common Council vacancy on the Board. Also during this quarter, Board members Maritza Martinez and Kerry Mulligan, both Common Council appointees, were reappointed to the Board.

COMPLAINT REVIEW

Pursuant to Section II, Subsection I of the Board's Operating Procedures, each of the 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 complaints were presented and reviewed in the second quarter of 2016.

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

February 2016	Larry Becker, Mickey Bradley, Charles Goodbee, Maritza Martinez, Ivy Morris, and Kerry Mulligan
March 2016	Larry Becker, Mickey Bradley, Michael Grady, Ivy Morris, Kerry Mulligan, and David Rozen
April 2016	Larry Becker, Charles Goodbee, Michael Grady, Maritza Martinez, Ivy Morris, and 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 second quarter of 2016, the Board received 7 new complaints in addition to its 36 active complaints and 9 suspended complaints. Monitors were appointed to investigate 4 of the 7 new complaints. Of the 43 complaints before the Board, the Board presented 8 complaints for review and rendered findings for the 34 allegation(s) contained in 9 complaints. Eight (8) of these complaints were closed and contained a total of 34 allegations of misconduct. As to the 8 complaints that were reviewed and closed, the Board made findings consistent with the preliminary findings of the Office of Professional Standards in 6 complaints. One complaint, in addition to the 8 reviewed, was closed with no review.

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

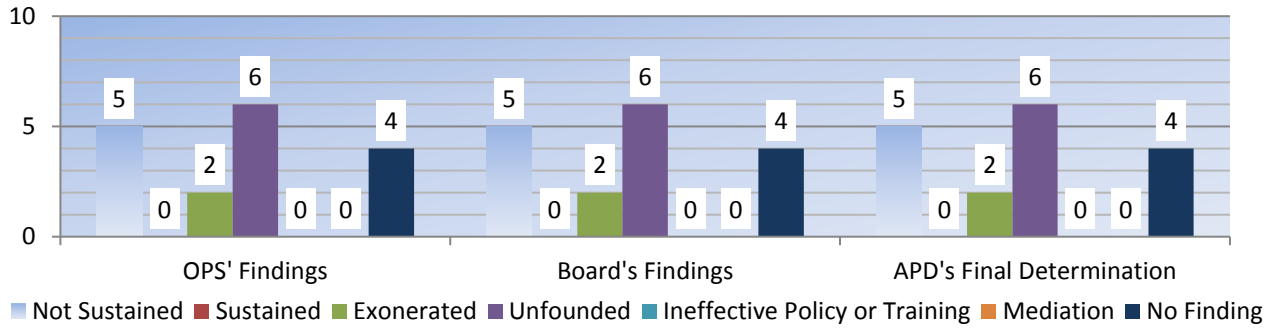

Figure 1: Comparison of findings made by the OPS, the Board, and the Albany Police Department during the second quarter of 2016.

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. 28-14 / OPS No. CC2014-072 [monitor appointed]

Nature of the Allegation(s): 1) **Conduct Standards** - the complaint alleged the officers threatened to pepper spray the complainant's family if they did not leave the scene; *and*

2) **Use of Force** - the complaint alleged the complainant was pepper sprayed, thrown to the ground and handcuffed while trying to tell the officers the complainant's side of the story.

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

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

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

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

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

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

CPRB No. 08-15 / OPS No. CC2015-022 [monitor was appointed]

Nature of the Allegation(s): 1) **Call Handling** - the complainant alleged a non-sworn clerk and officer at a Station desk treated the complainant rudely, and caused unnecessary delay.

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

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

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

CPRB No. 10-15 / OPS No. CC2015-021 [monitor appointed]

Nature of the Allegation(s): 1) **Arrest Authority & Procedures** - the complainant alleged the officers pulled the complainant over for a missing headlight; officers smelled marijuana in the car;

2) **Arrest Authority & Procedures** - the complainant alleged that officers performed unnecessary drug test and purposely caused her to fail the tests;

3) **Arrest Authority & Procedures** - the complainant alleged being taken to the hospital for blood tests; the officers were upset they couldn't get the blood needed due to the complainant's medical condition;

4) **Arrest Authority & Procedures** - the complainant alleged that she was denied a phone call while in booking;

5) **Arrest Authority & Procedures** - the complainant alleged that no one showed concern that she would miss her medical appointment;

6) **Arrest Authority & Procedures** - the officer decided to lodge the complainant due to the complainant spitting on the officer, but did not charge the complainant with the offense of spitting on the officer;

7) **Use of Force** - the complainant alleged that as the complainant walked out of the ER officers stepped on the complainant's feet, dragged the complainant to the police car, and threw the complainant into the car; *and*

8) **Use of Force** - the complainant alleged that a spit mask placed on the complainant restricted the complainant's breathing.

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

2) **Exonerated** as to the arrest authority & procedures allegation;

3) **Exonerated** as to the arrest authority & procedures allegation;

4) **Exonerated** as to the arrest authority & procedures allegation;

5) **Unfounded** as to the arrest authority & procedures allegation;

6) **Exonerated** as to the arrest authority & procedures allegation;

7) **Unfounded** as to the use of force allegation; and

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

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

2) **Exonerated** as to the arrest authority & procedures allegation;

3) **Exonerated** as to the arrest authority & procedures allegation;

4) **Exonerated** as to the arrest authority & procedures allegation;

5) **Unfounded** as to the arrest authority & procedures allegation;

6) **Ineffective Policy or Training** as to the arrest authority & procedures allegation;

7) **Unfounded** as to the use of force allegation; and

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

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

2) **Exonerated** as to the arrest authority & procedures allegation;

3) **Exonerated** as to the arrest authority & procedures allegation;

4) **Exonerated** as to the arrest authority & procedures allegation;

5) **Unfounded** as to the arrest authority & procedures allegation;

6) **Ineffective Policy or Training** as to the arrest authority & procedures allegation;

7) **Unfounded** as to the use of force allegation; *and*

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

CPRB No. 11-15 / OPS No. CC2015-025 [monitor appointed]

Nature of the Allegation(s): 1) **Use of Force** - the complainant alleged an officer shoved the complainant back and against the wall;

2) **Use of Force** - the complainant alleged the handcuffs placed on the complainant were too tight;

3) **Conduct Standards** - the complainant alleged during the altercation with officers the complainant's eyeglasses fell to the ground and were stepped on; *and*

4) **Prisoner Conduct** - the complainant alleged following the injury being transported to AMCH where the complainant was required to stay for 3 days while undergoing a heart catheterization procedure.

OPS Preliminary Finding(s): 1) **Not Sustained** as to the use of force allegation;

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

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

4) **Exonerated** as to the prisoner conduct (injury) allegation.

CPRB Finding(s): 1) **Not Sustained** as to the use of force allegation;

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

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

4) **Exonerated** as to the prisoner conduct (injury) allegation.

APD Final Determination(s): 1) **Not Sustained** as to the use of force allegation;

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

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

4) **Exonerated** as to the prisoner conduct (injury) allegation.

CPRB No. 13-15 / OPS No. CC2015-007 [no monitor assigned]

Nature of Allegation(s): 1) **Evidence & Property Handling -** the complainant alleged that detectives stole $6,500 USC that belonged to the complainant;

2) **Evidence & Property Handling** - the complainant alleged that the amount of money stolen was a different amount than documented in the evidence report;

3) **Forced Entry** - the complainant alleged that the complainant attempted to open the front door for APD although officers forced their way in;

4) **Forced Entry** - the complainant alleged that officers broke the complainant's front door while forcing their way in; *and*

5) **Call Handling** - the complainant alleged that the complainant and their fiancée were handcuffed while detectives searched the complainant's residence without showing a search warrant.

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

2) **Not Sustained** as to the evidence & property handling allegation;

3) **Exonerated** as to the forced entry allegation;

4) **Not Sustained** as to the forced entry allegation; and

5) **Exonerated** as to the forced entry allegation.

CPRB Finding(s):

1) **Unfounded** as to the evidence & property handling allegation;

2) **Not Sustained** as to the evidence & property handling allegation;

3) **Exonerated** as to the forced entry allegation;

4) **Not Sustained** as to the forced entry allegation; and

5) **Exonerated** as to the forced entry allegation.

APD Final Determination:

1) **Unfounded** as to the evidence & property handling allegation;

2) **Not Sustained** as to the evidence & property handling allegation;

3) **Exonerated** as to the forced entry allegation;

4) **Not Sustained** as to the forced entry allegation; and

5) **Exonerated** as to the forced entry allegation.

CPRB No. 16-15 / OPS No. CC2015-036 [monitor appointed]

Nature of Allegation(s):

1) **Arrest Authority & Procedures** - the complainant alleged APD officers conducted a traffic stop on the complainant with guns drawn without probable cause;

2) **Evidence & Property Handling** - the complainant alleged APD confiscated $2,000 USC from the complainant unlawfully;

3) **Evidence & Property Handling** - the complainant alleged that the money confiscated from him was a different amount than that documented on APD property reports;

4) **Call Handling** - the complainant alleged APD officers performed a vehicle stop without reason;

5) **Department Procedure (Vehicle Pursuit)** - the complainant alleged that, after APD officers exited their cars with guns drawn, the complainant intentionally led officers on a vehicle chase;

6) **Use of Force** - the complainant alleged that after crashing their vehicle, the complainant ran away while being chased by officers; the complainant laid down on the ground and was kicked and punched by

officers resulting in the complainant breaking their ankle and requiring surgery;

7) **Use of Force** - the complainant alleged that a sergeant ordered officers to drag the complainant over rocks causing further injury to the complainant; *and*

8) **Call Handling** (Strip Search) - the complainant alleged that when an ambulance arrived, he was strip searched on the scene based on officers' belief that he was "known for having something."

OPS Preliminary Finding(s):

1) **Exonerated** as to the arrest authority & procedures allegation;

2) **Exonerated** as to the evidence & property handling allegation;

3) **Not Sustained** as to the evidence & property handling allegation;

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

5) **Unfounded** as to the department procedure (vehicle pursuit) allegation;

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

7) **Unfounded** as to the use of force allegation; and

8) **Not Sustained** as to the call handling (strip search) allegation.

CPRB Finding(s):

1) **Exonerated** as to the arrest authority & procedures allegation;

2) **Exonerated** as to the evidence & property handling allegation;

3) **Not Sustained** as to the evidence & property handling allegation;

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

5) **Unfounded** as to the department procedure (vehicle pursuit) allegation;

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

7) **Unfounded** as to the use of force allegation; and

8) **Not Sustained** as to the call handling (strip search) allegation.

OPS Finding(s):

1) **Exonerated** as to the arrest authority & procedures allegation;

2) **Exonerated** as to the evidence & property handling allegation;

3) **Not Sustained** as to the evidence & property handling allegation;

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

5) **Unfounded** as to the department procedure (vehicle pursuit) allegation;

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

7) **Unfounded** as to the use of force allegation; and

8) **Not Sustained** as to the call handling (strip search) allegation.

CPRB No. 24-15 / OPS No. CC2015-040 [no monitor appointed]

Nature of Allegation(s): 1) **Arrest Authority & Procedures** - the complainant alleged they were arrested without probable cause; *and*

2) **Use of Force** - the complainant alleged that an APD officer during the vehicle stop attempted to physically remove the complainant from the vehicle and place the complainant's arm behind their back while the complainant continued to hold onto the steering wheel.

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

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

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

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

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

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

CPRB No. 28-15 / OPS No. CC2015-050 [no monitor assigned]

Nature of Allegation(s): 1) **Conduct Standards** - the complainant alleged being questioned by an APD officer regarding alcohol consumption; *and*

2) **Arrest Authority & Procedures** - the complainant alleged being ticketed erroneously for traffic violations for the complainant's vehicle instead of the trailer involved.

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

2) Ineffective Policy or Training as to the arrest authority & procedures allegation.

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

2) Ineffective Policy or Training as to the arrest authority & procedures allegation.

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

2) Ineffective Policy or Training as to the arrest authority & procedures 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 2016, the Board received 4 new Grievance Forms from the OPS, in addition to its 580 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 2016, one Citizen Complaint Form was filed. Of the 584 Grievance Forms received by the Board since 2008, 156 Citizen Complaint Forms were filed.

MEETINGS

The Board met as a whole three times for the conduct of business during the second quarter of 2016. Meetings were held on February 11, 2016; March 10, 2016; and April 14, 2016. All of the three 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 three times, reviewing 8 complaints and rendering findings for 32 allegation(s) contained in 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