



Operation Procedures of the Community Police Review Board of the City of Albany, New York

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I. Receiving Complaints

- A. The Government Law Center of Albany Law School (GLC) shall establish a system for logging the receipt of complaints directly from the public and indirectly through the Albany Police Department.
- (1) In the event the GLC receives a citizen complaint filed in the first instance with the CPRB, the GLC will record the receipt of the complaint and will forthwith notify via telephone the Office of Professional Standards that a complaint has been filed with the CPRB.
 - (2) In accordance with sec. 42-342(B), staff from the Office of Professional Standards will pick-up the original complaint form from the GLC within two (2) business days.
 - (3) The GLC will keep a copy of the complaint form in a locked file, and will retain a signature log indicating that the complaint form has been received by a staff member of the Office of Professional Standards.
 - (4) The Office of Professional Standards will, in compliance with the law, provide the GLC with a copy of the complaint showing the number assigned to the complaint by that Office.
- B. In the event that the Office of Professional Standards receives a complaint in the first instance, the Office shall forthwith notify via telephone the GLC, and within two (2) days, provide a copy of that complaint (with number assigned) to the CPRB by delivering it to the GLC.

II. Review of Complaints

- A. The Board shall review each complaint received to determine whether the allegations of such complaint, taken as a whole, set forth a substantial claim of the use of excessive force or a violation of civil rights. Upon the Board's determination that a complaint sets forth such a claim, the Board shall promptly appoint an individual to observe and monitor the investigation of such complaint by Professional Standards from the outset of such investigation and to report to the Board and to the Chief on the conduct of such investigation.

- B. When, in the judgment of the Chair or, in the absence of the Chair, the Vice Chair or, in the absence of both of them, the Chair of the Committee on Complaint Review (each of them as the case may be, the “Officer of the Day,”) review of a complaint by the Board in the first instance in accordance with subdivision A of this section II may result in unreasonable delay in the appointment of a monitor as required by section 42-343 (B) of Local Law No. B-2000 in light of all the circumstances, the Officer of the Day may make the requisite determination and, if required, appoint a monitor in accordance with the procedures outlined below in subdivision D (which shall be preferred), or, in extraordinary circumstances, subdivision F. In all such cases, the Officer of the Day shall give written notice to each member of the Board within two days after such appointment, which notice shall state the procedure followed by the Officer of the Day in making such appointment and the reasons for the determination and appointment, if any. In the event that the Officer of the Day has made such determination and appointment without employing the consultative process outlined below, such notice shall also state the reasons why, in such member’s judgment, consultation was not practical. All such determinations to appoint a monitor or not shall be subject to review and ratification by the Board at its next regular monthly meeting or a special meeting called for that purpose, whichever is earlier.
- C. Upon receipt of a complaint, the GLC shall notify the Officer of the Day as soon as practicable after receipt thereof. A GLC staff member will read the full written narrative verbatim and other pertinent information in the complaint to the Officer of the Day.
- D. After a reading of the Complaint to the Officer of the Day, the GLC Staff shall consult with four other members of the Board, which is inclusive of the Chair, the Vice Chair and the Chair of such Committee, if available, in as timely and expeditious a manner as practical. Such consultation shall take place by telephone or at a Board meeting or other mutually convenient location unless, in the reasonable judgment of the Officer of the Day, the time needed to schedule such a meeting or telephone call would unreasonably delay the appointment of a monitor, if required, and thereby impair the ability of the individual appointed to monitor the investigation effectively. The GLC will schedule the telephone calls or bring complaint to a Board meeting to complete the consultation required hereunder.
- E. Upon the concurrence of at least three members of the Board, the Officer of the Day shall refer the matter to the full Board for the determination of whether the appointment of a monitor is required, or make such determination in the first instance, subject to review and ratification by the full Board. In either instance, the full Board shall consider the matter at its next regular monthly meeting or at a special meeting called for that purpose, whichever is earlier.
- F. When, in the judgment of the Officer of the Day, the complaint makes a clear and

substantial allegation of excessive use of force or a violation of civil rights and the circumstances of the complaint, including but not limited to the gravity of the misconduct alleged, the level of public interest in the complaint and/or other exigent factors, indicate a need for the immediate appointment of a monitor, the Officer of the Day may dispense with the consultative process outlined above, in whole or in part, and may determine that the appointment of a monitor is required and make such appointment. In every such case, however, the Officer of the Day shall within two (2) days of taking such action give written notice to all members of the Board stating the Officer of the Day's reasons for exercising his or her discretion on the matter, including the reasons why he or she did not comply with the consultative process outlined herein, in whole or in part. Any such determination by the Officer of the Day on the appointment of a monitor shall be subject to review and ratification by the full Board at its next regular monthly meeting or at a special meeting called for the purpose, whichever is earlier.

- G. The Chair of the Committee on Complaint Review or, in the absence of such Committee Chair, the Officer of the Day, shall promptly notify the GLC of every determination hereunder. The GLC shall in turn promptly notify each member of the Board of every such determination.
- H. To facilitate the consultative process outlined herein, the Chair shall establish a schedule listing the names of the members, in addition to the Chair, the Vice Chair and the Chair of the Committee on Complaint Review, who shall be consulted in each month set forth in the schedule. The initial schedule shall be established for a three (3) month period and shall be revised monthly adding a month in order that each member of the Board may participate in the consultative process on a rotating basis. In the event that any member of the Board, including the Chair, the Vice Chair and the Chair of the Committee on Complaint Review, is unavailable for consultation with respect to any particular complaint during a period when such member is scheduled to participate in consultations, the Officer of the Day or, if no Officer of the Day is available, the two members on the monthly schedule for that month acting jointly, shall, with such assistance of the GLC as they may require, designate other members of the Board to replace such members who are unavailable with respect to such complaint. To the extent practicable, the selection of a replacement member or members shall be made from the monthly schedule of designees in the order in which their names appear.
- I. It is the intent of the Chair that all members of the Board fully participate in the review, consideration and determination of Board action to be taken with respect to citizen complaints filed either with the Office of Professional Standards or with the Board at the Government Law Center.

To advance such purpose and ensure full participation by all members of the Board in the complaint review process, the Chair, effective January 1, 2002, shall appoint the Chair of the Committee on Complaint Review and four other members of the

Board who shall constitute the Committee on Complaint Review. The Chair of such Committee shall serve for a single calendar year term and may not be appointed to serve as such Chair for the succeeding calendar year, provided that, in the sole discretion of the Chair of the Board, the individual serving as the Chair of such Committee on December 31, 2001 may be appointed to continue as such Chair for the 2002 calendar year.

The Chair of the Committee shall serve as a permanent member of the Committee during his or her tenure as Chair. The other membership of the Board shall serve on a rotating basis which will result in the replacement of two members of the Committee by two other members of the Board each month. The Chair of the Board may elect to serve on the Committee pursuant to this rotation procedure. At each monthly meeting of the Board, the Chair shall designate the members who shall serve on the Complaint Committee for the next succeeding month.

The Government Law Center shall notify the Chair of the Board and the Chair of the Committee not less than ten (10) days prior to the next scheduled monthly meeting of the Board with respect to citizen complaints upon which the Office of Professional Standards has submitted to the GLC its preliminary report. The Chair of the Board, or the Chair of the Committee if authorized by the Chair of the Board, shall notify each member of the Committee that such member shall be responsible for the presentation of a particular complaint to the Board at its next monthly meeting. The responsibility to make such presentation shall include the duty to review the text of the actual citizen complaint, the text of the preliminary findings of the Office of Professional Standards and the complete report of a monitor if appointed by the Board with respect to such complaint. On complaints where monitors have been appointed, the Chair recommends that the Board member charged with the responsibility for presentation of such complaint shall also visit the Office of Professional Standards so that such member may be totally familiar with all investigative information available to the OPS with respect to such complaint.

- J. In applying section 42-343(B) of Local Law No. B-2000 with respect to the appointment of a monitor, it is the Board's intent to look to the substance of each complaint. To support the appointment of a monitor, a complaint should allege with reasonable specificity facts or circumstances that would, if proven, lead a reasonable person to conclude that an excessive use of force or an abuse of civil rights has taken place. In reviewing a complaint for this preliminary purpose, the Board will give an expansive reading to the allegations of the complaint and resolve all ambiguities in a manner that would support the appointment of a monitor. The mere claim of excessive use of force or violation of civil rights will not be sufficient, in and of itself, to require the Board to appoint a monitor, but in making its determination, the Board may consider any information available to it and shall not be limited to the information set forth in the complaint.

A determination with respect to the appointment of a monitor in connection with any particular complaint shall not be construed as an indication that the Board or the Officer of the Day, in consultation with other members of the Board or in his or her own discretion, has made a judgment on the merits of the complaint or of the veracity, or lack thereof, of the allegation or allegations made, in whole or in part, by the complainant. The determination to appoint a monitor with respect to such complaint indicates only that the full complaint is sufficient on its face, at the time made and without opportunity for it to be controverted, to enable the Board or the Officer of the Day, as the case may be, to make a reasonable determination that a monitor is required to be appointed pursuant to such section 42-343(B).

III. Procedures for Monitors to Report to the CPRB

A. Introduction

The Albany Community Police Review Board (hereinafter “the Board”) has determined that an updated protocol for the content of monitors’ and investigators’ reports to be made to the Board with respect to the conduct of investigations either by the Office of Professional Standards (hereinafter “OPS”) or on the Board’s own initiative is advisable in order to better enable the Board to fulfill its duties and responsibilities.

The investigation of a police officer or officers (hereinafter the use of the term “officer” shall include the singular, or the plural, as the case may be) is a serious matter, especially when an incident allegedly involves the improper or excessive use of force by an officer against a citizen, or a violation of a citizen’s civil rights. The Board’s role under the Albany City Code is to ensure that a thorough, complete, and fair investigation is made and the Board’s determination is an equally serious matter as the Board’s findings may have a substantial impact upon the career of a police officer. The Board’s role is to ensure that the rights of the public have not been violated by the police department, which the department is sworn to protect. The Board must remain vigilant to ascertain whether an officer found to have violated proper police practices is adequately sanctioned and, conversely, that the exoneration of an officer or other finding with respect to the conduct of the officer by the OPS is the fair and correct determination of the matter.

The Board cannot satisfy its obligations to the citizens or the police department without the assistance of a diversified panel of well-qualified monitors and investigators possessing an expertise in ascertaining whether an investigation by the OPS is, in fact, thorough, complete, and fair. While Board members undertake their own individual review of complaints, more often than not, it is the report of the monitor which will serve as the most complete professional guide to the full Board as it reviews the quality of the OPS investigation. The protocol for the observation of the conduct of an OPS investigation as well as for the content of

monitor's reports set out below are established in an effort to prescribe a format of uniform guidelines for monitors to consider as they fulfill their responsibilities upon appointment. While the Board expects a monitor to comply with each item of information or Board recommended course of action, the Board recognizes that the quality of adherence to the guidelines depends upon the information available to the monitor and the nature and/or complexity of the case. The Board seeks to improve the inclusive scope and quality of the reports to a higher level of informativeness as measured against reports made prior to and/or in the absence of these and/or any other guidelines. Accordingly, these guidelines have been promulgated by the Board and shall be accorded substantial deference by monitors.

IV. Protocol for Monitoring Investigations

- A. The monitor shall be notified of his or her appointment as a monitor by the Government Law Center of Albany Law School (hereinafter the "GLC"). The fact that the Board has pre-determined to appoint a monitor with respect to a citizen complaint indicates that a panel of the Board has determined that allegations made by a complainant charge a police officer with either excess use of force and/or a violation of the complainant's civil rights. The panel's determination to appoint a monitor is based solely upon a reading of the text of the complaint as filed and does not indicate any pre-finding by the panel that the complaint is meritorious, in whole, or in part. It is solely based upon a reading of the complaint, submitted as is, by the complainant. The determination by the Board panel to appoint a monitor indicates the objective of the Board to ensure the broadest degree of scrutiny of a complaint and shall never be construed as a prior judgment by the Board of the merits of the complaint. The monitor shall similarly make no prior judgment regarding the merit or lack of merit of a complaint based upon panel appointment of a monitor.
- B. Within twenty-four (24) hours of appointment, the monitor shall either pick up a copy of the complaint from the GLC or request a representative of the GLC to fax a copy of the written complaint to the monitor. When a monitor has requested a copy of the complaint by fax, the monitor shall take steps to protect the privacy of the complainant and the confidentiality of the complaint. If the monitor cannot meet the twenty-four (24) hour requirement, the monitor shall contact the GLC immediately.
- C. Within the same time frame, as in paragraph 2 above, the monitor shall contact the OPS to inform an appropriate representative of that office that he or she has been appointed a monitor with respect to a complaint filed by a named complainant. If the complaint was filed initially with the police department, the OPS will have numbered the complaint under the OPS complaint numbering scheme. If the complaint was filed initially with the GLC the complaint will indicate the Board complaint number assigned by the GLC which is different than that of the OPS.

D. If an OPS representative has been assigned to the complaint for investigation purposes, the monitor shall request to set up an initial meeting with such representative at the OPS. If no representative has yet been assigned, the monitor shall request that the OPS have such representative call the monitor upon assuming the investigation of the complaint. The purpose of the initial meeting is to attempt to establish a time frame that both the OPS and the monitor expect will facilitate the joint participation of the OPS representative and the monitor in the initial interview of the complainant or complainants, all witnesses listed by any complainant on the complaint, any other witnesses who may have directly observed the alleged police misconduct. The monitor shall be required to follow the OPS' investigation of the complaint by attending the interviews of the complainant or complainants, all witnesses listed by any complainant on the complaint, and any other witnesses who may have directly observed the alleged police misconduct.

E. By interpretation of Chapter 42, Part 33, which established the Board, members appointed to the Board are not authorized to know the name, names of target officers, or other identifiers. Often a complainant will identify the name of a target officer in a complaint. If so, the OPS or GLC will redact the name, names or other identifiable information of the officer or officers in the text of the complaint.

A monitor shall similarly not be entitled to know the name of a target officer or officers. If, in any event, whether because a name was not effectively redacted, or because the monitor observes a target officer (or reasonably believes such officer to be a target officer) upon leaving an OPS office after questioning, the monitor shall strictly protect the identity of any such officer.

F. Upon establishing a schedule for the OPS representative and the monitor to discuss the complaint and participate in interviews, to the extent permitted by the Chapter 42, Part 33, interviews of all complainants, witnesses, target officers, and other officers shall begin. This is with the understanding that the schedule may change as the investigation proceeds.

G. By accepting to be a monitor, the monitor must be willing and able to be flexible in attending interview sessions and other investigative work required to be done at the OPS. OPS will endeavor to extend the same courtesy to the time needs of the monitor. A monitor, absent extraordinary circumstances, must be willing and able to be present at the OPS office, or such other location of investigation as determined by the OPS, during normal work hours of the OPS and consistent with the work schedule of a target officer. In the past, monitors have attempted to perform their duties after normal working hours of the OPS. This has led to conflicts and excessive overtime compensation paid to the OPS. Monitor requests at least a one day notice from the OPS in scheduling interviews. The monitor shall contact the GLC if there is an interview scheduled that they should have attended but was not

able to.

H. This paragraph 8 sets out essential guidelines on the scope in which a monitor may participate in the interview process. Under Chapter 42, Part 33, participation by the monitor in interviews conducted by the OPS is as follows:

(a) A monitor shall indicate to the OPS representative that he or she desires to be present for all interviews to be conducted of a complainant or complainants, a witness or witnesses for a complainant or complainants, and for any other witness. If the aforementioned individuals, or any of them, agree to the presence of the monitor during the interview or any subsequent interview, then the monitor shall sit in and observe the interview. The monitor shall not speak during the interview unless authorized by the OPS, but may make notes regarding the interview, and ask to speak to the OPS representative separately. In order that participation in the interview process be maximized hereunder, the monitor shall make this request to the OPS representative diplomatically, and at the earliest time any such interview is scheduled. The monitor shall further request that such representative seek the consent of each individual who is to be interviewed by the OPS, other than a target officer, or other police officer, for the monitor to be present at such interview. A monitor is authorized to request the OPS representative to pose to any complainant witness, target officer, or other officer such additional questions as the monitor believes necessary to assist the Board in determining whether the OPS investigation is complete, thorough, and fair. The monitor shall make such request to the OPS representative in private and shall not do so during the course of any interview at which the monitor is present.

There have been complaints where the report of the OPS has indicated that witness statements by complainant's witnesses should be critically weighed by the Board for bias. The Board expects a monitor who is present during an interview of a complainant's witness to carefully focus on the independence, credibility, and presence of, or lack, of bias of the witness. The monitor shall specifically narrate in his or her report regarding his or her opinion regarding the credibility of such a witness based upon the direct observation by the monitor of such interview;

(b) In accordance with Section II of the Albany Police Department's Procedures and Practices for Briefing and Communicating with Individuals Appointed to Observe and Monitor, a monitor is not allowed to be present during any OPS interview of a police officer, whether a target officer or not. Upon request of the monitor, the monitor shall be entitled to receive from the OPS a full transcript (subject to identity redactions) of each question asked during any interview by the OPS representative and the full text of the officer's response, whether a target officer or otherwise. This is an invaluable source of

information to be gained by the monitor and shall be pursued, as a matter of course, and especially in high-profile cases, alleging excessive use of force or violation of civil rights.

- I. A monitor is entitled to have access to all OPS documents, not otherwise protected from disclosure by state or federal law, which bear upon the conduct of such officer's investigation. Such documents shall include, but need not be limited to, copies of uniform traffic tickets issued, domestic incident reports, criminal information complaints, confidential reports prepared by the OPS relevant to the investigation, recorded police radio transmissions, dispatches made in regard to the incident, any internal departmental correspondence relating thereto, transcribed statements given by police officers (subject to all required redactions of names), transcribed statements given by a complainant and witnesses, police dispatch sheets, any recorded transmission of a traffic stop, all pictures including booking pictures taken by police of any complainant who may have suffered injuries during the act of being arrested, if complainant releases any statements by physicians or other health care personnel relating to a complainant's physical condition if the complainant was brought to a hospital or went thereto, on his or her own accord, any pre-hospital care report (e.g., prepared by the Albany Fire Department, emergency medical services unit, etc.) relative to treatment of the complainant, copies of applicable penal statutes (including vehicle and traffic laws, which the monitor believes will be informative to the Board), and all other departmental paperwork contained in the incident case file relating to the complaint.

The Board expects monitors to vigilantly review the above-mentioned documents to ensure the preparation of a monitor report to the Board that is thorough and inclusive of all essential elements of information that will assist the Board in making its findings with respect to the conclusions upon the complaint submitted by the OPS to the Board.

- J. Within five (5) business days of receiving the OPS' preliminary report of its findings, the monitor shall submit to the GLC and the Board his or her report. Reports can be transmitted by regular mail, electronic mail, or facsimile. Reports shall be submitted no later than ten (10) days before the meeting at which the report is scheduled to be presented and reviewed.

V. Protocol for Contents and Format of Monitors' Reports

The following format shall constitute the protocol for the contents and format of a monitor's report to the Board.

- A. The authority of the Board to appoint monitors is set forth in Section 43-343 (B)(1) of Article XLII of Part 33 of the Code of the City of Albany (adopted 7/17/00) and Section 7 of the By-Laws and Rules of the Albany Community Police Review

Board (adopted 5/7/01). A monitor shall begin their reports with a statement of this authority.

B. A monitor shall state the date he or she was appointed as a monitor and the date the complaint was filed. The monitor shall also indicate whether the complaint was filed with the police department or with the GLC, and, if the monitor can readily ascertain, whether the complainant was assisted by any person in the preparation of the complaint.

(a) The monitor shall indicate the initial date of contact made by the monitor with a representative of the OPS and shall identify the name of the OPS representative assigned responsibility to investigate the complaint. The monitor shall further indicate the dates of all subsequent contacts with such representative whether, in person, or by other means of communication, including, but not limited to the date of all interviews of any individuals relating to the complaint as conducted by the OPS. For each such contact, the monitor shall give a brief statement of the purpose of the contact and what transpired as a result thereof. With respect to interviews that the monitor is authorized to be present at, the monitor shall indicate his or her presence thereat or absence therefrom. If the monitor was absent from any such interviews, he or she shall state the reasons for such absence.

(b) A monitor shall briefly give a summary of all contacts, and the dates thereof, the monitor had with the representative of the OPS and the purpose of such contacts. Based upon the detail of such contacts listed by the monitor pursuant to paragraph 3 of this protocol the monitor may elect to reference paragraph 3 in lieu of making the summary provided for herein.

D. In the past, monitors have submitted reports wherein they have typed out the full text of the complaint. Often the handwriting of a complainant is difficult to read and this practice was helpful to the Board. However, it is also time consuming on the part of the monitor. It shall no longer be necessary for the monitor to continue this practice. The GLC has volunteered the aid of student-staff to type out the full text of the complaint.

The monitor shall ascertain the essential elements set forth in the complaint, which he or she believes critical to resolution of the complaint by the Board, and shall summarize these elements in a concise manner for the benefit of the Board.

E. The monitor shall set forth the findings of the OPS with respect to the complaint, including multiple findings if such complaint raises more than one grievance with respect to the actions of a target officer or officers. It shall be sufficient to give a summary of such findings and the summary shall include the rationale of the OPS for arriving at its conclusion.

F. The monitor shall include in the report a statement of facts relating to the complaint which are not in dispute by any of the parties. The report shall similarly state whether any other facts are in dispute, and if so, the nature of the facts and a description of why such facts are in dispute and how the complainant, witnesses, target officer or officers or other officers and OPS view the proper determination of such disputed facts.

(a) The monitor shall give a full description of the full conduct of the investigation, which shall include a complete statement of all the types of OPS documents described in paragraph 9 of the

Protocol for Monitoring Investigations. The monitor shall indicate the date or dates each such document was examined.

(a) The monitor shall identify the name of each complainant and witness interviewed by the OPS, except if the witness is an officer. The monitor shall indicate whether a witness offered information in support of the complainant or was an independent witness who directly observed the incident which is the subject of the complaint. The monitor shall state whether he or she was present at one or more interviews conducted with the aforementioned individuals. The monitor shall also state whether he or she was absent from any such interview and the reason for any such absence. The monitor shall also state whether the complainant or any witness refused consent for the monitor to be present at any interview.

A monitor may elect to give a summary of all essential information gathered through the interview process, on an individual by individual basis, so long as such summary is clearly informative for the purpose of Board review. In lieu of providing such a summary, a monitor may determine that Board action upon a complaint may require the Board to review the redacted tapes of any such interview. The monitor shall state his or her basis for such determination.

A monitor shall be entitled to comment upon the credibility of any of the above mentioned individuals based solely upon the monitor's actual observation of such an individual at an interview of such person attended by the monitor. The monitor shall state his or her basis for supporting or questioning the credibility of any such individual.

(b) The monitor shall similarly give a summary of the testimony of all police officers interviewed and shall indicate whether the officer or officers were the target of the complaint (subject to all required name redactions). The summary of the interviews shall be based upon a complete review by the monitor of all transcribed documents containing the full text of the officer interview. The

monitor shall indicate whether he or she requested the representative of the OPS to ask additional questions of any particular officer and shall further indicate whether the representative of the OPS agreed to pose any such question in an interview. If additional questions were requested to be posed, the monitor shall summarize the text of each requested question. The monitor may indicate to the Board, based upon a review of the applicable transcript, whether any such question was in fact posed and answered.

If, during the course of performing the duties of the monitor, the monitor has a reasonable basis to believe that a target officer has violated any provision of the Standard Operating Procedures of the Albany Police Department regulating the conduct of police officers with respect to their contact or interaction with the public, the monitor shall clearly state the section of such procedures he or she believe such officer violated and the basis the monitor has for such belief. A copy of the Standard Operating Procedures is available to monitors at the GLC.

- H. The monitor shall provide the Board with a dateline with respect to the conduct of the OPS investigation and the participation by the monitor relating thereto. In furtherance thereof, the monitor shall indicate all pertinent dates when events took place which are included in the narrative of the monitor's report.
- I. Based upon a review of the complete record in accordance with these protocols, the monitor shall state with clarity whether he or she agrees with the findings of the OPS with respect to the complaint in whole, or, in part. The monitor shall include within his or her report written justification of his or her determination to agree with such findings. In the event that the monitor disagrees with such findings in whole, or in part, he or she shall state the reasons for such disagreement. If the monitor believes the investigation to be incomplete as a basis for his or her disagreement with such findings, the monitor shall inform the Board of such belief and may recommend to the Board that further action or continued investigation is necessary with respect to ensuring an adequate investigation of the complaint.
- J. In the event the CPRB requests that the OPS conduct further investigation of a citizen complaint, pursuant to the Board's authority under § 42-343 (F)(2) of the City Code, the monitor shall follow the same **Protocol for Monitoring Investigations** and **Protocol for Contents and Format of Monitors' Reports** to the Board for the further investigation as set forth above to the extent that the same protocols apply to the further investigation.

VI. Compensation

- A. At the conclusion of the investigation and in conjunction with the submission of the monitor's report, monitors shall submit to the GLC an invoice for payment, indicating the number of hours spent in furtherance of their responsibilities and a

general description of the activities undertaken. In the event of fractions of hours, monitors will round up to fifteen (15) minute increments. For example, if a monitor spends forty (40) minutes at a meeting, he or she will invoice for three quarters of an hour. If the monitor spends twenty-five (25) minutes, then the monitor will invoice for a half (1/2) hour.

- B. The GLC shall quarterly send a monitor's payment report to the Chair of the Board for his review.
- C. Monitors shall be compensated for time spent in furtherance of actual monitoring responsibilities, which may include, but may not be limited to time spent:
 - (1) Observing the OPS' investigation of the complaint in accordance with the **Protocol for Monitoring Investigations**;
 - (2) Reviewing any documentation related to the investigation of the complaint in accordance with the **Protocol for Monitoring Investigations**;
 - (3) Preparing the monitor's report in accordance with the **Protocol for Contents and Format of Monitors' Reports**;
 - (4) Attending and reporting at the CPRB's public meetings where the monitor's complaints are being reviewed. The monitor's time starts upon their arrival or scheduled start of meeting (whichever is later) and ends upon the conclusion of voting on their case. In the event that the time consists of fractions of hours, the monitors shall be compensated for time spent according to Section IV(A) of this protocol; *and*
 - (5) Attending and participating at CPRB scheduled, required training programs coordinated by the GLC or CPRB.
- D. The following shall not be considered actual monitoring responsibilities, and therefore, are not compensable:
 - (1) Postage for any items mailed to the Board, unless otherwise approved by the Chair
 - (2) Tax; *and*
 - (3) Travel time, unless the monitor is traveling more than 50 miles from his or her principal residence in furtherance of his or her actual monitoring responsibilities. In such a case, the monitor may be entitled to compensation for mileage upon approval of the Chair.
- E. Any other expenses incurred by a monitor that is not otherwise covered in subpart C or subpart D of this section shall be submitted to the Chair for review and determination as to whether or not they are compensable expenses. The monitor shall notify the GLC prior to incurring any other expenses that is not otherwise covered in this Section. The Chair shall determine whether or not these expenses

will be compensable.

VII. Protocols for Mediation

- A. Upon receipt of a complaint, unless the case involves an allegation of criminal conduct against an officer, or the complaint is a result of an incident that involves an arrest, or if there was an injury to either party, or if there was property damage by an officer, the complaint will be considered appropriate for mediation. Review for this track will be made by the Office of Professional Standards (OPS) and the Assistant Chief for the Albany Police Department (APD) and by the Albany Community Police Review Board (CPRB). For the CPRB, the CPRB Standing Committee on Investigation will be contacted by the Government Law Center (GLC) and a decision made as to appropriateness for mediation. The decision in APD and the decision by the CPRB shall be made within two business days.

If either the APD or the CPRB finds it inappropriate for mediation the matter is referred to OPS for investigation.

Neither the APD nor the CPRB need provide a reason for rejecting mediation.

If the case is deemed appropriate for mediation, both parties must agree prior to the scheduling the mediation. OPS will contact the target Officer(s). The GLC will notify the complainant.

All parties involved in the mediation process shall be informed that once mediation occurs, the complaint shall be considered “resolved.” Each party must acknowledge their understanding that the “resolution” is the fact that the mediation took place. The full CPRB Board shall issue a finding of “Mediated” for the record.

- B. OPS will send a notice to the officer(s), within two days of the mediation approval, which shall include:

- + complaint number
- + name of the complainant(s)
- + the allegations
- + an explanation of the mediation program
- + an advisement to the officer(s) that the Assistant Chief has concluded that the case is appropriate for mediation
- + an order from the Assistant Chief that the officer(s) contact OPS within the officer(s)' next three working days upon receipt of the notice
- + an explanation that participation in the mediation program is purely voluntary and that, upon completion of the mediation, the complaint will be categorized as

"Mediated."

The involved officer(s)'s commander shall ensure that the involved officer(s) are provided with notice from OPS as soon as possible.

When the officer contacts OPS, the Assistant Chief or his/her designee will ensure that the officer fully understands the mediation program and will ask the officer if he/she will mediate the complaint. The officer will be advised that once the mediation begins then the complaint will not be investigated regardless of the outcome of the mediation.

- C. The GLC will send notice by email and/or Priority Mail, Return Receipt Requested to the complainant(s) within two days of the mediation approval, which shall include:
- + complaint number
 - + an explanation of the mediation program
 - + an advisement of the CPRB decision that the case is appropriate for mediation
 - + an advisement that the complainant shall contact the GLC within three business days of receipt of the notice
 - + an explanation that participation in the mediation program is voluntary and that if the complainant does not wish to mediate the matter will be referred to OPS.
- D. When the GLC is contacted by the complainant(s), the GLC will ensure that the complainant(s) understands the mediation program and will ask the complainant(s) if he/she will participate in the mediation program. The mediator will provide the complainant(s) with a disclaimer that he/she will have to sign. The disclaimer will state that the complainant has been advised that once the mediation begins then his/her complaint will not be investigated regardless of the outcome of the mediation, and that the complaint shall be considered "resolved."
- E. If either the officer or the complainant(s) refuses mediation the matter will be referred to OPS for investigation.
- F. If both parties agree to mediation the matter will be referred to a mediator. The GLC shall contact the mediator, and in cooperation with OPS and the Assistant Chief or his/her designee, shall provide all pertinent information so that the mediator can establish contact with the parties and set up the mediation session. The contact with the officer(s) shall be made by the Assistant Chief or designee.
- G. The GLC shall be responsible for ensuring the mediation is scheduled at a time reasonable for both the complainant(s) and the officer(s) and conducted in a timely fashion. Attempts shall be made to schedule mediations during officers' normal work hours. If scheduled mediations occur outside of normal work hours, then officers shall receive overtime pay in accordance with the corresponding collective bargaining agreement. The mediation will take place at a neutral site (i.e., the mediator's office).

No one is allowed in the mediation except the mediator, the officer(s) and the complainant(s), if said complainant is 18 years or older. Complainants under the age of 18 or who require a guardian or interpreter shall not be eligible for mediation.

- H. If the complainant(s) fails to appear for the scheduled session the first time, the GLC or the mediator will contact the complainant(s) to see if he/she wants to reschedule the mediation. If the complainant(s) does not want to reschedule the mediation, then his/her complaint will be closed as “no finding.” If the complainant(s) fails to appear for the second scheduled session, his/her complaint will be closed as “no finding.” If the officer(s) fails to appear for the first scheduled session, then rescheduling will be at the discretion of the GLC. If mediation is not scheduled or rescheduled within 3 months, the GLC will forward the case to OPS for investigation.
- I. Following the completion of mediation each party will be requested to complete an Evaluation Form regarding the process and outcome. The GLC will forward copies of the Evaluation Form to the CPRB and the Assistant Chief. All documents regarding mediations shall be kept confidential.
- J. There is no procedure for appeal by either party following mediation. The case is considered closed upon conclusion of the mediation session.
- K. The mediators will be appointed by the GLC upon mutual agreement by the CPRB and the Assistant Chief. As part of the selection process, the Assistant Chief will work with the APD Unions. Based on the Evaluation Forms, a mediator may be removed from service if the Assistant Chief recommends it in writing to the CPRB, and then the Board concurs with that recommendation by a majority vote. If the Board decides of its own volition that a mediator should be removed from service, the Assistant Chief shall be notified in writing and be given the opportunity to be heard, prior to the Board entertaining a vote for removal.

Mediators shall be highly trained and experienced. Mediator shall be assigned on a rotating basis.

The GLC shall endeavor to reflect community diversity in this list of mediators. The GLC shall develop an appropriate training curriculum which each mediator shall be required to complete. Each mediator shall be a graduate of the Albany Police Department's Citizen Police Academy. In addition, the GLC shall provide to the mediators, and the mediators shall undergo, continuing education on issues related to the interaction between civilians and police officers from the perspectives of both the citizen and the police officer.

Adopted: August 20, 2001
Revised: Revision 1 - December 3, 2001, adding new subparagraph I and renaming old subparagraph I as subparagraph J
Adopted: Revision 1 - January 14, 2002
Revised: Revision 2 – April 11, 2011 Operating Procedures Meeting:
Additions - Section II (C) “verbatim”; Section II (D) “to the Officer of the Day”, “GLC Staff”, “which is inclusive of”, “by telephone or”, “at a Board”, “call”, “schedule the telephone calls or bring complaint to a Board meeting to” *and* Section III, Section IV, Section V, Section VI.

Deletions – Section II (D) “Officer of the Day”, “including”, “at the offices of the GLC”, “or by conference telephone call”, “conference”, “assist the Officer of the Day in scheduling a meeting or telephone conference call and in otherwise”, “ing”.
Adopted: Revision 2 – June 9, 2011
Revised: Revision 3 – February 17, 2023, Operating Procedures Revised by including Monitor and mediation protocols and the complaint flow chart to the operating procedures. Section VII (A),(C),(G) and (H) was amended.