



80 NEW SCOTLAND AVENUE
ALBANY, NEW YORK 12208-3494
*Albany Community Police Review Board
c/o Government Law Center*

April 12, 2024

Chief Eric Hawkins
Albany Police Department
165 Henry Johnson Boulevard
Albany, NY 12210

RE: Policy and Practice Recommendations from the CPRB Standing Committee on Investigation

Dear Chief Eric Hawkins:

Section 42-343(C) of the Code of the City of Albany, NY states that the City of Albany Community Police Review Board (“the Board” or “CPRB”) shall periodically review and assess Albany Police Department (APD) policies, procedures, patterns, practices, and training, and may recommend changes to the APD. Pursuant to § 42-343(C), the Board has developed recommendations regarding the following APD’s policies:

- Record Systems General Order No. 4.2.10
- Body Worn Cameras, General Order No. 3.2.15
- Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05 and
- Disciplinary Procedures, General Order No. 2.2.20

Under § 42-343(C), the Chief must provide within 60 days written acknowledgment of receipt of the CPRB’s recommendations and a detailed listing of what CPRB recommendations are and are not being implemented to the CPRB. Accordingly, the CPRB respectfully requests this written response from you no later than **June 11, 2024**, which is the 60-day deadline outlined in the law.

Attached for your reference is a detailed outline of the Board’s recommendations. Please feel free to contact me at your convenience with any questions.

John Levandosky, Chair of CPRB Standing Committee on Investigation, Albany Community Police Review Board



80 NEW SCOTLAND AVENUE
ALBANY, NEW YORK 12208-3494
*Albany Community Police Review Board
c/o Government Law Center*

Albany Community Police Review Board

Investigative Committee Policy and Practice Recommendations

April 12, 2024

Table of Contents

I.	Recommended Procedure and Practice Change(s):	3
A.	APD General Order: Body Work Cameras, General Order No. 3.2.15(III)(J)(4).....	3
B.	APD General Order: Body Worn Cameras, General Order No. 3.2.15(V), (VI).....	3
C.	APD General Order: Body Worn Cameras, General Order No. 3.2.15(III)(I).....	4
II.	Recommended Policy Changes.....	4
A.	APD General Order: Office of Professional Standards – Complaint Procedures, General Order No. 2.4.05(I)(B)	4
B.	APD General Order: Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05(II)	5
C.	APD General Order: Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05(I)(A).....	6
D.	APD General Orders: Body Worn Cameras General Order No. 3.2.15; Mobile Digital Video/Audio Recording Equipment General Order No. 3.3.10; Record Systems General Order No. 4.2.10.	8
E.	APD General Order: Disciplinary Procedures General Order No. 2.2.20; Personnel Early Warning System General Order No. 2.4.15.....	9

I. Recommended Procedure and Practice Change(s):

A. APD General Order: Body Work Cameras, General Order No. 3.2.15(III)(J)(4)

The Board has learned that the lobby and desk areas of all APD stationhouses lack surveillance cameras, video recording capabilities, and log books to monitor station visitors. The APD Deputy Chief confirmed this deficiency, acknowledging the ongoing security assessment of facilities.

The only times when BWC are required to be turned on are during arrests, traffic stops, street encounters, foot pursuits, EDP calls, and use of force situations. Officers may but are not required to use their BWCs in situations like interviewing victims/complainants in a police facility and "General community policing functions." The General Order provides the following examples: "CPTED and security surveys, bike rodeos, etc." (3.2.15 (III)(J)). The station house front desk is distinguished from these examples as it can be accessed by the public, and these are not internal APD conversations.

Because General Order No. 3.2.15 does not specifically address the use of BWCs in the station house and the front desk and considering the potential impact on the safety, privacy, and integrity of both community members and APD staff, the committee proposes the following recommendations:

1. **Body Worn Cameras:** APD officers should activate their Body Worn Cameras (BWCs) in the station house and at the front desk when interacting with community members in relation to a complaint.
2. **Logbooks:** Logbooks should be installed in all APD Station Lobbies, allowing community members the option to sign in/sign out while conducting APD business, thereby documenting their presence if they choose to do so and aiding in visitor tracking.
3. **Monitoring System:** Equip all APD Station Lobbies and public areas with a 24-hour video monitoring system.

B. APD General Order: Body Worn Cameras, General Order No. 3.2.15(V), (VI)

1. APD and OPS should grant the Board unfettered access to the materials necessary to complete their investigations, including case files and any case-specific information.

The CPRB is once more urging for its Board members and investigators to be granted unrestricted access to the complete physical and digital case file as well as any case-specific information for any matter that the CPRB and/or OPS is investigating in accordance with Albany City Code §§

42-343(F) and 42-349. The OPS Commander or designee may provide a copy of the complete file upon the CPRB's request, with an ongoing obligation to provide additional materials as soon as they become available or by granting access to the file through Axon's evidence.com portal without any APD-imposed time limit.

C. APD General Order: Body Worn Cameras, General Order No. 3.2.15(III)(I)

1. APD should implement discipline for BWC violations and note them as allegations in the Case Summary of the OPS investigation.

In 2023, the CPRB identified instances of Officer non-compliance with BWC usage and a lack of discipline for said violation. To address this, the CPRB recommends that the department implement discipline for BWC violations and document them as allegations in the Case Summary of the OPS investigation. In a number of instances, the CPRB has reviewed OPS investigations that it completed well after the one-year time limit for imposing discipline that is part of the current Collective Bargaining Agreements (CBA) and beyond the sixty (60) days OPS is mandated to complete such investigations under General Order 2.4.05 II B. Specifically, multiple cases from 2022 and 2023 (including CC2018-018, CC2021-002, CC2021-003, CC2021-013, CC2021-019, and CC2021-037) involved significant delays in receiving BWC footage from OPS and/or many raised concerns over the lack of BWC footage in situations when they could and should have been used.

II. Recommended Policy Changes

A. APD General Order: Office of Professional Standards – Complaint Procedures, General Order No. 2.4.05(I)(B)

1. OPS should adhere to the sixty (60) day completion deadline found in G.O. 2.4.05.

In an effort to address gaps in the communication process, ensuring community members and the CPRB are kept informed of complaint status by OPS, we recommend adherence to GO 2.4.05 by OPS to ensure investigations are completed within 60 days of assignment to an OPS Detective. OPS should notify the complainant and the Board as to the status of a complaint and the expected completion date at 45 days if the complaint takes longer than 60 days.

2. Proposed Language for General Order No. 2.4.05(II)(B)(2):

If an investigation is expected to take longer than sixty (60) days, OPS shall notify the complainant and the Community Police Review Board as to the status of a complaint and the expected completion date no more than thirty (30) days thereafter.

B. Investigation of complaints shall generally be completed within sixty (60) days of the complaint investigation being assigned to an OPS detective. The detective may request extensions of the time period from the Chief of Police when extenuating circumstances exist.

1. OPS shall be responsible for notifying all complainants as to the status of their complaints and the expected completion date.
2. ~~Should an administrative investigation take longer than expected, OPS will notify the complainant and the subject employee of the delay and reason.~~ If an investigation is expected to take longer than sixty (60) days, OPS shall notify the complainant and the Community Police Review Board as to the status of a complaint and the expected completion date no more than thirty (30) days thereafter.

B. APD General Order: Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05(II)

1. APD should revise the Complaint Withdrawal Form language and include the Form as an attachment to General Order 2.4.05

Recently, there has been an unusual increase in the number of withdrawal forms received from complainants. As a result, the CPRB has contacted these complainants from 2022 and 2023 to inquire whether they were satisfied with the resolution of their complaint and to confirm with them that we received a complainant-signed withdrawal form from the Albany Police Department.

Based on these initial complaints, it appears that the complainants may not have been aware that by withdrawing their complaint, it may not be investigated and reviewed by the CPRB. Therefore, the Withdrawal Form statement should be revised to reflect this. Additionally, the CPRB recommends that any detective assigned to investigate a complaint may not suggest that the complainant withdraw their complaint or ask if they would like to withdraw their complaint. Please note that after receiving their Withdrawn Form from APD, we sent these complainants a letter informing them of our receipt of the form and that their case is now considered “closed.”

2. Proposed Recommendation for General Order No. 2.4.05(II)(D):

If a complainant expresses interest in withdrawing their complaint, OPS personnel shall inform the complainant that by withdrawing their complaint, the Community Police Review Board may not review it.

1. The assigned OPS Detective and any other APD or OPS personnel shall not ask or suggest that the complainant withdraw their complaint.

D. If a complainant expresses interest in withdrawing their complaint, OPS personnel shall inform the complainant that by withdrawing their complaint, the Community Police Review Board may not review it.

1. The assigned OPS detective and any other APD or OPS personnel shall not ask or suggest that the complainant withdraw their complaint.

2. APD Complaint Withdrawal Form Language:

Current language:

I _____state, at this time, that I no longer wish to pursue my complaint against the member(s) of the Albany Police Department.

to

Proposed Revised Language:

I _____ am voluntarily withdrawing my complaint dated _____. The withdrawal covers all aspects of the complaint made against any member(s) of the Albany Police Department. I am voluntarily withdrawing my request for an investigation and any consent that I may have granted for the release of information. I understand that any further review of the allegations contained in my complaint will be done at the discretion of the Albany Police Department.

Please take note that by withdrawing your complaint, your case will be considered "closed" and may not be reviewed by the Albany Community Police Review Board (CPRB). Should you decide to re-open your complaint, you may make a request to do so to the CPRB.

C. APD General Order: Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05(I)(A)

1. If a complaint is handled at the supervisor level, APD should provide the Board with a Supervisor Inquiry Report, and the Supervisor should follow up with the complainant and initiate further investigation if warranted.

During the CPRB Standing Committee on Police Department Liaison that took place in September 2023, Office of Professional Standards (OPS) Detective Lieutenant Mark Decker brought up the idea of the complaint with minor allegations such as rudeness and courtesy being reviewed and investigated by an APD Supervisor instead of being investigated by OPS. The aim of this alternative method is to process complaints more quickly, resulting in more satisfied complainants.

Lieutenant Decker explained that in cases where the supervisor inquired into the matter instead of OPS investigating it, it is recommended by CPRB that a report be provided to the board after the

completion of their inquiry. The supervisor will also follow up with the complainant, and if the complainant is not satisfied with the process, the complaint will then be investigated by OPS. Decker mentioned that most complainants are not aware that their matter can be resolved by a Supervisor. An example of the type of allegation considered for this process is rudeness/courtesy.

According to General Order 2.4.05 (Office of Professional Standards - Complaint Procedures), community members who seek to file a complaint against the department or its employees may be directed to an on-duty supervisor to record the complaint.

In such instances where this process occurs, the CPRB should at minimum, receive a report regarding the complaint after the completion of the Supervisor Inquiry process.

2. Proposed Recommendation for General Order No. 2.4.05(I)(A)(6):

If the complaint is handled at the supervisor level, then the supervisor shall be responsible for completing an Albany Police Department Supervisor Inquiry Report and entering it into IDC, APD Form # 423, shown on page 8 of this order and forwarding the report to OPS and to the Administrative Agency that administers the Community Police Review Board.

6. If the complaint is handled at the supervisor level, then the supervisor shall be responsible for completing an Albany Police Department Supervisor Inquiry Report and entering it into IDC, APD Form # 423 shown on page 8 of this order, and forwarding the report to OPS. ~~When the Supervisory Inquiry Report is forwarded to OPS, then OPS shall forward the Supervisory Inquiry Report and~~ to the Administrative Agency that administers the Community Police Review Board.

3. Proposed Recommendation for General Order No. 2.4.05(I)(A)(7):

Supervisors shall follow up with the complainant, and if the complainant is not satisfied with the process and desires further action and the matter warrants further investigation, the complaint will be forwarded to OPS for investigation.

7. ~~Supervisors shall follow up with the complainant, and if the complainant is not satisfied with the process and desires further action and the matter warrants further investigation, the complain will be forwarded to OPS for investigation. If the complainant desires further action and the matter warrants further investigation, the supervisor shall then advise the complainant that they should file a written complaint via a Community Complaint FormCitizen CComplaint Form, shown on pages 9 through 12 of this order, or the complainant may submit a written letter detailing the incident. The supervisor shall be responsible for offeringthe complainant a CitizenCommunity Complaint Form.~~

D. APD General Orders: Body Worn Cameras General Order No. 3.2.15; Mobile Digital Video/Audio Recording Equipment General Order No. 3.3.10; Record Systems General Order No. 4.2.10.

1. APD should adopt New York State’s LGS-1 retention schedule to promote uniformity of records retention within the city.

The Board is advocating for the adoption of the New York State Archives LGS-1 retention schedule in order to foster uniformity within the city. In accordance with the schedule, the Board is proposing a 6-month minimum retention for all BWC footage, aligning with LGS-1 standards and extending this retention requirement to dash camera and city camera recordings.

For instance, in traffic stops, APD retains traffic accident footage for 90 days but keeps traffic violation recordings for one year. Meanwhile, the LGS-1 calls for routine traffic stop recordings to be held for six months, and the troopers require all recordings to be held for a minimum of 6 months regardless of the type of incident recorded. As for booking videos, APD lags behind the LGS-1 schedule for these recordings: APD only retains these recordings for 30 days, while the minimum announced in the LGS-1 is three years, and it could be even longer, depending on the age of the individual. Address discrepancies in retention periods for booking videos, 911 calls, and other recordings, promoting consistency with LGS-1 guidelines.

Under Record Systems General Order No. 4.2.10, APD has elected to follow New York State Retention and Disposition Schedule MU-1. MU-1 has been superseded by LGS-1¹, and section 42-275 of the Albany City Code provides that “[t]he Common Council hereby adopts all records retention and disposition schedules or lists as may, in part or in total, apply either now or in the

¹ N.Y. State Educ. Dep’t & N.Y. State Archives, *Local Government Retention Schedules*, <https://www.archives.nysed.gov/records/retention-schedules-local-government>.

future.” It is therefore recommended that APD updates their records retention schedule to reflect the LGS-1 schedule promulgated by the New York State Education Department.²

E. APD General Order: Disciplinary Procedures General Order No. 2.2.20; Personnel Early Warning System General Order No. 2.4.15

1. APD should provide the Board with a quarterly report detailing all APD staff members' recommendations for training following disciplinary infractions.

In an effort to comply with the Albany Police Department Discipline Matrix, CPRB recommends we receive quarterly reports detailing all APD staff members recommended for training following disciplinary infractions (including Education-Based Discipline in accordance with APD Discipline Matrix³). Additionally, the CPRB requests quarterly reports on APD staff and APD-issued oral and/or Written Counseling Memos, providing detailed information on infractions and remediation for each incident.

2. Proposed Recommendation for General Order No. 2.2.20 (IV):
 1. Officer disciplinary information, including recommendations for training, training records, and written and/or oral Counseling Memos, shall be compiled and transmitted to the Community Police Review Board on a quarterly basis.
 2. The report shall provide detailed information on the infractions and remediation for each incident.

The latest APD Chief Quarterly Report on Disciplinary Investigations and Actions marks a notable improvement compared to previous iterations. However, past reports have been criticized for their general nature, lacking specific details on mentioned cases and aggregate data. This deficiency undermines efforts to achieve greater transparency, a key priority highlighted by our Board Members. Transparency requirements outlined in § 42-340 of the City Code underscore the necessity of including individualized data on specific cases and aggregated information within our reports.

² N.Y. State Educ. Dep't & N.Y. State Archives, *Local Government Schedule: LGS-1* (2022), <https://www.archives.nysed.gov/records/local-government-record-schedule/lgs-1-title-page>. It should be noted that it is unclear whether the City of Albany has formally adopted any specific retention schedule other than what is stated in City Code § 42-275(b). LGS-1 requires that if a local government has not already adopted LGS-1 then it must adopt it by resolution, even if the local government has previously adopted and utilized the CO-2, MU-1, MI-1, or ED-1 Schedules.

³ Albany Community Police Review Board, *Disciplinary Matrix* (2023), <https://www.albanycprb.org/wp-content/uploads/2023/03/APD-Discipline-Matrix-Draft-2023.pdf>.

IV. Quarterly Reports

1. Officer disciplinary information, including recommendations for training, training records, and written and/or oral Counseling Memos, shall be compiled and transmitted to the Community Police Review Board on a quarterly basis.
2. The report shall provide detailed information on the infractions and remediation for each incident.

3. Proposed Recommendation for General Order No. 2.4.15 (II)(G)(4)(b)(i)(f):

1. The training summaries shall be compiled and reported to the Community Police Review Board quarterly

- e) A summary of the training shall be documented via IDC and shall be included with the PEWS review.
- e)f) The training summaries shall be compiled and reported to the Community Police Review Board Quarterly.