



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

March 15, 2024

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

RE: Policy and Practice Recommendations Related to Administrative Investigation of South Station Arch Street Protests AD2021-054 and Complaint Nos. CC2021-010, CC2021-011, CC2021-012, and CC2021-020

Dear Chief Eric Hawkins:

Pursuant to § 42-343 of the City Code:

The CPRB shall have the power to conduct independent investigations as it deems warranted, even in the absence of a complaint being filed with either OPS or CPRB; the power to issue subpoenas to compel testimony and the production of evidence; and the power to discipline officers if a complaint of misconduct is sustained subject to due process procedures and findings.

As you are aware, the CPRB recently completed its independent investigation into the South Station Arch Street incident arising out of a protest march on April 14, 2021, that ended at the Albany Police Department (“APD”) South Station, and the subsequent encampment of protesters outside the South Station which was terminated by the APD on April 22, 2021.

As a result of the CPRB’s independent investigation, the CPRB made the following findings at its public meeting held on Thursday, March 14, 2024:

OPS Case No. CC2021-010

- With regards to 1 count of alleged improper Conduct Standards of removing APD identification that occurred on April 14, 2021, the CPRB reached a finding of **Not Sustained**.
- With regards to 1 count of alleged improper Conduct Standards of removing APD identification that occurred on April 22, 2021, the CPRB reached a finding of **Sustained**.
- With regards to 1 count of alleged improper Use of Force that occurred on April 22, 2021, the CPRB reached a finding of **Not Sustained**.

- With regards to 1 count of alleged improper Conduct Standards of APD officers displaying “Thin Blue Line” insignia on uniforms and equipment, the CPRB reached a finding of **Sustained**.

OPS Case No. CC2021-011

- With regards to 1 count of alleged improper Conduct Standards of removing APD identification, the CPRB reached a finding of **Sustained**.
- With regards to 1 count of alleged improper Conduct Standards of APD officers failing to provide their names or badge numbers, the CPRB reached a finding of **Sustained**.
- With regards to 1 count of alleged improper Use of Force, the CPRB reached a finding of **Not Sustained**.

OPS Case No. CC2021-020

- With regards to 1 count of alleged improper Use of Force, on April 14, 2021, by Lieutenant Devin Anderson towards a person known to APD, the CPRB reached a finding of **Sustained**.
- With regards to 1 count of alleged improper Use of Force, on April 14, 2021, the CPRB reached a finding of **Unfounded**.
- With regards to 1 count of alleged improper Use of Force, on April 14, 2021, the CPRB reached a finding of **Not Sustained**.

The CPRB’s independent investigation also revealed numerous policy violations. The CPRB made the following additional findings at its public meeting held on Thursday, March 14, 2024:

- On April 14, 2021, Lieutenant Devin Anderson violated the department’s policy, Use of Force, General Order No. 1.3.00, by forcibly removing a megaphone from a female protester, the officer failed to attempt to de-escalate and gave no verbal instructions to the protester, and in doing so, he pushed the megaphone into the protester’s face, lacerating her lip and chipping her teeth (OPS Case No. CC2021-020).
- On April 14, 2021, an APD officer released Oleoresin Capsicum (“OC”) Spray in a manner which did not conform with the department’s policy, Use of Force General Order No. 1.3.00 (OPS Case No. CC2021-020).
- On April 14, 2021, a version of the U.S. flag with the “Blue Lives Matter”/”Thin Blue Line” insignia was observed hanging in South Station, which is “inappropriate and against guidelines,” per a statement made by Chief of Police Eric Hawkins.
- T&M could not substantiate that on April 14, 2021, APD Officers removed their name tags and/or badges, but did observe that some officers obscured parts of their name tags with their body-worn cameras.
- After April 14, 2021, APD failed to investigate or refer for investigation allegations that Lieutenant Anderson or any other APD Officers’ personal information was shared online (known as doxing) and/or that any APD Officers and/or their families were threatened. T&M was unable to confirm that any APD Officers were doxed after April 14, 2021.
- After April 14, 2021, through April 22, 2021, APD failed to adequately monitor activity at the South Station encampment.

- On April 22, 2021, some APD Officers covered or removed their name tags and/or badges and some APD Officers failed to provide their name and/or badge number when requested to do so by civilians at the encampment (OPS Cases No. CC2021-010 and CC2021-011).
- On April 22, 2021, some APD Officers displayed “Blue Lives Matter”/“Thin Blue Line” paraphernalia on their polymer shields and uniforms, and APD Supervisors failed to visibly inspect officers to ensure that their uniforms and gear were within APD guidelines and that their name and badge numbers were visible in violation of policy (OPS Cases No. CC2021-010 and CC2021-011).
- On April 22, 2021, APD did not have a thorough plan for arrest processing, including but not limited to, a central repository to inform the public who was arrested and what was charged, and criteria for which arrestees would be eligible for Desk Appearance Tickets, causing unnecessary confusion and undermining the public’s trust (OPS Case No. CC2021-012).
- On April 22, 2021, lead operational Lieutenant Josiah Jones failed to wear a body-worn camera in violation of the department’s policy, Body-Worn Cameras General Order No.3.2.15 II.A (OPS Case No. CC2021-012).
- On April 22, 2021, APD failed to safeguard an arrestee’s personal cell phone (OPS Case No. CC2021-012).
- On April 22, 2021, APD failed to plan for the breakdown of the encampment and the safeguarding of personal property. In addition, APD failed to follow their own internal operational order regarding the takedown of the encampment.
- APD investigated and reported the OPS Confidential Report separately from its investigation of CC2021-010, CC2021-011, CC2021,012 and CC2021-020. Additionally, APD failed to thoroughly investigate CC2021-010, CC2021-011, CC2021-012 and CC2021-20 in a timely manner, in that their individual case findings were completed over two years from being reported and well past the sixty (60) days designated in General Order 2.4.05 II B. APD failed to interview civilians when investigating for the OPS Confidential Report and individual cases.
- APD failed to understand that displaying “Blue Lives Matter”/“Thin Blue Line” paraphernalia on uniforms and in the station can undermine the public’s trust.
- After April 22, 2021, APD failed to conduct an After-Action Report of the takedown of the encampment in accordance with Emergency Operations Plan Critical Incidents General Order No. 3.9.00.

Our report, which accompanies this letter, is now being submitted to you in accordance with § 42-345 of the City Code.

Although these findings are beyond the statute of limitations within which discipline may be imposed, the CPRB has the authority, pursuant to section 42-343(C) of the Code of the City of Albany, NY, to periodically review and assess Albany Police Department (APD) policies, procedures, patterns, practices, and training, and may recommend changes to the APD. Pursuant to this authority, the Board is providing recommendation changes to the following APD General Orders:

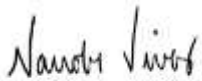
- Office of Professional Standards - Complaint Procedures, General Order No. 2.4.05
- Use of Force - Less Lethal Weapons, General Order No. 1.3.00
- Body Worn Cameras, General Order No. 3.2.15

- Emergency Operations Plan Critical Incidents, General Order No. 3.9.00
- Uniforms & Grooming Standards, General Order No. 3.2.00
- Conduct Standards, General Order No. 2.2.00
- Public Information, General Order No. 2.5.00

A detailed outline of the CPRB's recommendations for these General Orders is outlined attached.

Under § 42-343(C), the Chief must acknowledge receipt of the CPRB's recommendations in writing and provide a detailed listing of which recommendations are and are not being implemented within 60 days from the date of this letter. The CPRB looks forward to receiving APD's response to these recommendations.

Please feel free to contact me at your convenience with any questions.



Nairobi Vives, Esq., Chair
Albany Community Police Review Board



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Policy and Practice Recommendations

March 14, 2024

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I. Recommended Procedure and Practice Changes

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

1. APD should utilize the IAPro database to better monitor its cases for statute-of-limitation compliance.

APD investigated and reported the OPS Confidential Report separately from its investigation of CC2021-010, CC2021-011, CC2021,012, and CC2021-020. OPS did not complete its investigations within one year in compliance with the applicable statute of limitations (SOL): APD failed to thoroughly investigate CC2021-010, CC2021-011, CC2021-012, and CC 2021-020 in a timely manner in that their individual case findings were completed almost twenty-four months from being reported. The CPRB did not learn that OPS had sustained misconduct allegations until it received OPS's Confidential Report almost two years after the initial complaints were reported. However, those sustained findings by OPS were More effective use of the IAPro database can help OPS comply with General Order 2.4.05(II)(B)'s mandate that "[i]nvestigation of complaints shall generally be completed within sixty (60) days of the complaint investigation being assigned to an OPS detective."

2. OPS should conduct its investigations in a timely manner.

The U.S. Department of Justice Office of Community Oriented Policing Services (COPS) has provided a comprehensive list of recommended effective practices for police internal affairs units, noting that "[c]ompletion of Internal Affairs investigations should occur as rapidly as is reasonably necessary to fulfill the investigative mission. In all instances, however, an internal investigation should be completed within a reasonable time before any applicable statute of limitations or other bar to officer discipline has run out. It is preferable to conclude investigations within 180 days."¹ As the South Station and other cases have revealed, OPS has allowed the statute to lapse in 43 out of 69 active cases. The CPRB appreciates that OPS has worked to reduce its case backlog, but the CPRB believes that the statute of limitations issue should be made explicit.

3. OPS should conduct its investigations in a thorough manner.

The CPRB's South Station investigation also revealed significant investigative deficiencies regarding APD's failure to interview non-police witnesses when investigating the OPS Confidential Report and individual cases. Per the U.S. Department of Justice (DOJ) recommendations for department investigations, OPS should complete thorough and timely investigations, including contacting and interviewing all complainants.²

¹ Comm. Oriented Policing Servs. U.S. Dept. Just., Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice 33 (2009).

² *Id.* at 29, 33–34.

4. Proposed language for General Order 2.4.05(II)(B)(3)

Investigations should be both timely and thorough to ensure the preservation of evidence and witness information and compliance with relevant statutes of limitation. Investigations shall include documented attempts to contact and interview all complainants.

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.

2.3. Investigations should be both timely and thorough to ensure the preservation of evidence and witness information and compliance with relevant statutes of limitation. Investigations shall include documented attempts to contact and interview all complainants.

B. APD General Order: Use of Force - Less Lethal Weapons, General Order No. 1.3.00

T&M found that on April 14, 2021, an APD officer released Oleoresin Capsicum (OC) spray in a manner that did not conform with the department's policy, Use of Force General Order No. 1.3.00.

The Training Unit shall re-train officers with regard to their authority to use "less lethal weapons," including OC Spray, and documentation of completion shall be included and maintained in the officer's personnel file within the Office of Professional Standards.

C. APD General Order: Property and Evidence Control, General Order No. 2.1.00

OPS and T&M investigators determined that on April 22, 2021, APD failed to safeguard an arrestee's personal cell phone, and APD did not have a thorough plan for processing and charging arrestees.

When a property is found or voluntarily surrendered, it must be secured and handled in accordance with General Order 2.1.00, which provides that the property should be returned expeditiously, if possible. Further, if the owner cannot immediately retrieve the property, the property must be submitted to the Evidence Room, and the owner should be advised to contact the Evidence Detective.

D. APD General Order(s): Public Information, General Order No. 2.5.00

General Order No. 2.5.00(3)(C) mandates that APD personnel ensure that any information that is released to the news media is accurate.

In connection with allegations that APD officer(s)' personal information was exposed online ("doxed"). T&M investigators did not find any evidence that any officer(s) were "doxed." T&M also found that after April 14, 2021, APD failed to investigate or refer for investigation allegations that officers' personal information was shared online and/or that any APD officers and/or their families were threatened. Nor did APD take practical cautionary steps to secure any officers' or officers' families' safety or initiate an actual investigation.

The Chief of Police or personnel of APD should not make unsubstantiated statements against its citizens.

II. Recommended Policy Changes

A. APD General Order: Use of Force - Less Lethal Weapons, General Order No. 1.3.00

1. Police officers should actively seek to avoid using force whenever possible and appropriate by employing techniques such as de-escalation if the safety of the situation allows it, and APD should reinforce this principle through written policies, training, supervision, and reporting and review of use-of-force incidents.

T&M investigators determined that on April 14, 2021, Lieutenant Devin Anderson violated the department's Use of Force policy (General Order No. 1.3.00) by forcibly removing a megaphone from a protester. The officer failed to attempt to de-escalate and gave no verbal instructions to the protester. The protester suffered a lacerated lip and chipped teeth.

2. Proposed language for General Order No. 1.3.00(I)(B)(1)

"Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall, when feasible, attempt to understand and consider the possible reasons that a subject may be non-compliant or resisting arrest. De-escalation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety."

B. When safe and reasonable, officers shall attempt to use de-escalation tactics.

1. De-escalation tactics and techniques are actions used by officers, when safe and without compromising the mission of the Albany Police Department, which seek to achieve conflict resolution during an incident, and increase the likelihood of voluntary compliance. Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall, when feasible, attempt to understand and consider the possible reasons that a subject may be non-compliant or resisting arrest. De-escalation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.

B. APD General Order: Body-Worn Cameras, General Order No. 3.2.15

T&M investigators did not substantiate that on April 14, 2021, APD officers removed their name tags and/or badges, but the investigation did reveal that some officers obscured parts of their name tags with their body-worn cameras.

1. APD policy should specify the mounting position for name tags, badges, and body-worn cameras and provide training on such requirements.

An officer's BWC placement should not block name tags and badges. The current APD policy, General Order No. 3.2.15(I)(F), requires that the BWC be mounted to allow a recording, but the policy does not specify the mounting position. OPS recommended that Lt. Jones be re-trained on the BWC policy and that the General Order be revised.

2. Proposed Language for General Order No. 3.2.15 (I)(G)

“Prior to going into service, each uniformed employee equipped with a department-issued BWC will be responsible for making sure that the BWC is in good working order. The BWC shall be conspicuously placed on the employee's person and worn in such a way as to provide an unobstructed camera view of employee/citizen contacts. The camera shall be considered mounted correctly if it is mounted using an AXON-approved mounting accessory.”

- F.** Employees assigned a BWC are responsible for ensuring the BWC remains mounted in a position to allow the recording of an encounter or incident and is in good working order.
1. Personnel who require the use of a pacemaker shall notify the department for the purpose of obtaining a nonmagnetic mount as to not interfere with its operation.
- G.** Prior to going into service, each uniformed employee equipped with a department-issued BWC will be responsible for making sure that the BWC is in good working order. The BWC shall be conspicuously placed on the employee's person and worn in such a way as to provide an unobstructed camera view of employee/citizen contacts. The camera shall be considered mounted correctly if it is mounted using an AXON-approved mounting accessory.

C. APD General Order: Emergency Operations Plan Critical Incidents, General Order No. 3.9.00

T&M investigators determined that APD failed to monitor activity at the encampment from April 14, 2021, through April 22, 2021, and because of a lack of intelligence, APD was unprepared to remove the encampment on April 22, 2021. T&M also found that after April 22, 2021, APD failed to conduct a post-operative review and report of the takedown of the encampment and lack of coordination of services (EMS and fire) with agencies outside of the Department of General Services (DGS).

1. APD policy should specify a deadline by which the Incident Commander shall complete an After-Action Report.

Pursuant to General Order No. 3.9.00 (III)(I)(3), the Incident Commander shall complete a detailed After-Action Report, which includes a summary of the department's actions and recommendations for the handling of future incidents of the Incident but not specify a date to complete such After Action Report.

2. Proposed language for General Order No. 3.9.00(I)(3)

The Incident Commander shall complete a detailed After Action Report of the Incident, which will include a summary of the department's actions and recommendations for the handling of future incidents within sixty (60) days.

I. Post Occurrence Procedures:

1. The on duty supervisors, with the concurrence of the Incident Commander at the Command Post, may relieve personnel from the incident location when those personnel are no longer needed for site security.
2. The Incident Commander will conduct a de-briefing of the incident.
3. The Incident Commander ~~shall~~ will complete a detailed After Action Report of the incident, which will include a summary of the department's actions and recommendations for the handling of future incidents within sixty (60) days.
 - a. The Incident Commander will complete this report in a timely matter and will submit it to the Chief of Police.

III. Recommended Training/Education Changes

A. APD General Order: Body Worn Cameras, General Order No. 3.2.15

T&M found that on April 22, 2021, lead operational Lieutenant Josiah Jones failed to wear a body-worn camera in violation of the department's policy, Body-Worn Cameras General Order No.3.2.15 II.A.

The Training Unit shall train officers in how and where body-worn cameras should be worn on uniform, and a copy of the certification of completion shall be included in the officer's personnel file within the Office of Professional Standards.

Members of the Department that are assigned a body-worn camera shall receive mobile video training prior to deployment of the device in an operational setting. At this training, each employee will be provided a standard checklist of steps they are required to complete in order to ensure their body-worn camera and mounting systems are in good working order.

B. APD General Order(s): Emergency Operations Plan Critical Incidents, General Order No. 3.9.00

The Training Unit shall schedule regular training for Supervisors regarding dealing with critical incidents (including civil unrest), and documentation of completion shall be included and maintained in the officer's personnel file within the Office of Professional Standards.

C. APD General Order(s): Uniforms & Grooming Standards, General Order No. 3.2.00; Conduct Standards, General Order No. 2.2.00.

Officers should strictly follow Uniforms & Grooming Standards, General Order No. 3.2.00 and Conduct Standards, General Order 2.2.00 (I)(A)(22).

T&M found that on April 22, 2021, some APD Officers covered or removed their name tags and/or badges, and some APD Officers failed to provide their name and/or badge number when requested to do so by civilians at the encampment.

The Training Unit shall train officers on name tags and badge placement on officers' uniforms and provision of officers' name and badge information upon request, and documentation of completion shall be included and maintained in the officer's personnel file within the Office of Professional Standards.

D. APD General Order(s): Conduct Standards, General Order No. 2.2.00

T&M found that on April 14, 2021, a version of the U.S. flag with the "Blue Lives Matter"/"Thin Blue Line" insignia was observed hanging in South Station, which is "inappropriate and against guidelines," per a statement made by Chief of Police Eric Hawkins.³

T&M also found that on April 22, 2021, some APD Officers displayed controversial "Blue Lives Matter" and "Thin Blue Line" paraphernalia on their polymer shields and uniforms, and APD Supervisors failed to visibly inspect officers to ensure that their uniforms and gear were within APD guidelines and that their name and badge numbers were visible in violation of policy, General Order No. 3.2.00.

The Training Unit shall train officers regarding the potential impact of imagery within a policing context, and a documentation copy of the certification of completion shall be included and maintained in the officer's personnel file within the Office of Professional Standards.

³For Chief Hawkins's statement, see page 45 of the South Station Arch Street report. "Thin Blue Line" imagery is linked to the "Blue Lives Matter" movement, which emerged as a counter-movement to Black Lives Matter, a movement formed in protest of alleged and founded police misconduct. Such imagery has been associated, at times, with white supremacist organizations, and law enforcement agencies across the U.S. have prohibited its use, citing its potential divisiveness. The "Thin Blue Line" is characterized by a thin blue line encased with black lines.