



June 22, 2020

The Albany Common Council
City Hall
24 Eagle Street, Room 206
Albany, NY 12207

Re: Recommendations for Policy Reforms

Dear Members of the Common Council:

The Albany Community Police Review Board met on June 18 to discuss recommendations for policing reforms in Albany.¹ The members of the Review Board agreed on the need to discuss and carefully consider significant structural reforms and a wide variety of creative proposals. But several proposals emerged as “low-hanging fruit”: ideas that the Review Board believes should be part of any reform effort.

The Review Board voted unanimously to adopt the following recommendations for the Common Council’s consideration:

I. PUBLIC ACCESS TO INFORMATION

A. Public Access to Police Department Policies

The following language should be adopted by statute:

- “All Albany Police Department (APD) policies and procedures, as well as any collective-bargaining agreements covering members of the Department, shall be made available to the public on the Department’s website within 14 days

¹ See Albany City Administrative Code § 42-340(A) (“The CPRB may make recommendations to the Common Council and the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers.”).

of their effective date and for as long as those policies, procedures, or agreements are effective. Specific provisions may be redacted if necessary to protect public safety. In the event a policy or procedure is redacted, APD shall forward notice to the Common Council explaining the need for the redaction within 14 days.”

B. Public Access to Disciplinary Information (Implementation of the Repeal of Civil Rights Law 50-A)

- The Albany Police Department shall post online any information about disciplinary actions taken against individual officers that would be subject to disclosure under the Freedom of Information Law.
- Require APD to publish quarterly reports on disciplinary actions taken within the department – complaints, investigations, and their resolution. These reports should include both individualized information about specific cases and aggregate information.
- The CPRB should have the power to request a report from the Department on whether disciplinary action was taken in any specific case.
- Under no circumstances shall the Department ask any member of the public to pay for access to information that would be subject to disclosure under the Freedom of Information Law.

C. Public Access to Video Footage

- "Upon request by any resident of New York State, the Department shall make any video footage pertaining to an incident public within 14 days, with only those redactions that are necessary." (This would presumably have to be harmonized with FOIL, and the limited circumstances identified in which withholding information would be appropriate.)
- “Under no circumstances shall a person be charged for access to video footage.

D. Public Oversight of Surveillance Technology

- Publicly release contracts for surveillance technology, including UAV, social media scrubbing, phone unlocking devices, etc.
- Every time each is used, create a process to have a master list of each use. Provide that list to the CPRB. Then, provide CPRB with a list of warrants corresponding to uses.

- Information obtained by surveillance will be destroyed as soon as an investigation or related criminal proceedings are finished, and a copy or detailed description of all data compiled on anyone will be relayed to them. There will not be a central collection, database, or comparison of data obtained through surveillance.
- Chief will create a policy to make a report for every time these technologies are used.
- Within 30 days, report, and copy of any warrant, it should be sent to CPRB.

E. Public Access to Data on Stops and Other Incidents (implementing new law against racial profiling)

- Require APD to collect data on all stops (traffic stops and pedestrian stops) that includes the race and gender of the person stopped and the officer involved, the nature of interaction between officer and driver (e.g., cordial, tense, combative), location, the length of the stop, as well as the reason for the stop and the outcome of the stop (search, citation, arrest, warning, etc.). If a search was conducted, it should be clear whether the search occurred prior to arrest or incident to arrest.
- Requiring APD to make all of this data available online on APD's open data site, which has been collapsed into the City of Albany's open data portal (<https://data.albanyny.gov/>). The new data available via city's portal is aggregated to levels of neighborhood and patrol zone. APD should share data at lower level of analysis, e.g., geographic coordinates, street segment, or block level.
- Require APD to compile and report all of this data to the Common Council and CPRB on a quarterly basis.
- Require APD to review policy regarding documentation of incidents other than stops, and consider either (a) requiring officers fill out either field interview card or document incident as "civil problem", or (b) offer complainant option to fill out own "citizen report"; other agencies do this and it allows complainants to document an incident at police department, including getting a formal police report number, even if officer did not think it was reasonable to take a report; this seems like it would alleviate many of the concerns from complainants who express concern that without a report it is as if incident never occurred.

II. CPRB PROCEDURES

F. CPRB Access to Information

Add new sections to Albany Administrative Code § 42-342:

- "The CPRB shall have full access to information about any officer involved in the events that are the subject of a complaint, including information about prior complaints about that officer and any action taken in response to those complaints. It shall be within the discretion of the CPRB whether to discuss in a public meeting, or include in the CPRB's findings, or otherwise make public, that information."
- "When a complaint is filed, and the Department has any audio or video footage pertaining to the incident (including, but not limited to, body-camera footage and dashboard-camera footage), the Department shall make that footage available for viewing by any member of the CPRB upon request. If the Department fails to make the footage available within fourteen days, it shall forward notice to the CPRB and the Common Council explaining the delay. It shall be within the discretion of the CPRB whether to discuss in a public meeting, or include in the CPRB's findings, or otherwise make public, that information."

G. Delays in Investigating Cases

- Add the bolded language to Albany Administrative Code § 42-343(c): "Professional Standards shall begin its investigation of each complaint immediately upon receipt of the complaint. If Professional Standards fails to conclude its investigation within 60 days of receipt of the complaint, it shall advise the CPRB **and the Common Council** in writing of the status of the investigation and the estimated time for the conclusion of the investigation. Thereafter, Professional Standards shall advise the CPRB **and the Common Council** in writing of the status of the investigation every 30 days until the conclusion of the investigation."

III. OTHER REFORMS

H. When Officers Turn Off Recording Devices

- Make it a civil or criminal offense for an officer to deactivate a video or audio recording device such as a body camera when responding to an incident. (Such cases may already constitute obstruction of justice, if they

involve the intent to obstruct a possible investigation, but obstruction of justice is difficult to prove.)

I. Criminal and Oversight Referrals

- The Police Review Board should have the power to make a referral to appropriate criminal and oversight authorities in any case in which its members conclude (and find, by majority vote) that there is probable cause to think that an officer or employee of the Albany Police Department has violated the law.

J. Public Statements about Cases

- "No member of the Police Department shall make a public statement about a case or incident unless they simultaneously make public all documents and recordings relevant to the case, including any material that would be subject to disclosure under *Brady v. Maryland* and related cases."

The Board has expressed serious concern about cases in which the Chief or members of the Police Department have made public statements immediately following an incident. Understandably, these statements are typically favorable to the Department's view of the case. But when the Police Department has in its possession evidence, such as video footage, that may show facts less favorable to the Department, it is unfair to give the public only one side of the story.

- The Common Council should also explicitly give the Police Chief (or their designee) the power to comment on individual cases of alleged misconduct by officers, and encourage the Chief to acknowledge apparent misconduct where he believes it exists.

K. Codify Core Principles

The Common Council should incorporate into the statutory and/or charter provisions governing the Police Department these core principles: trust and partnership (between police and community), transparency, accountability, guardian/protector mentality.

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Of course, if any members of the Council would like to discuss these ideas, or any other ideas for reforming policing and police oversight, we would welcome those ideas and the opportunity to speak further about them.

We thank the members of the Common Council for their attention to these recommendations, and we look forward to working with you in the future to make Albany a more equitable city for everyone.

Sincerely,

/s/

Ivy Morris
Chair
Community Police Review Board