



Eric Hawkins
Chief of Police

ALBANY, NEW YORK

POLICE DEPARTMENT

165 HENRY JOHNSON BOULEVARD
ALBANY, NEW YORK 12210



1789

CRIMINAL INVESTIGATIONS: ADMINISTRATION GENERAL ORDER NO: 3.5.00

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PURPOSE: The purpose of this policy is to establish the functions and responsibilities regarding criminal investigations.

POLICY: It is the policy of the Albany Police Department to investigate all reported criminal offenses thoroughly and in a timely manner. The Criminal Investigations Unit (CIU) provides twenty-four (24) hour service, staffed with supervisors and detectives specializing in case-screening, case file management, preliminary and follow-up investigations, interviews and interrogations, while assuring compliance with constitutional protections.

DEFINITIONS: **Interview** – Interview means the questioning of an individual, by an officer or detective, for the purpose of obtaining information relevant to a police-related matter.

Interrogation – Interrogation means the questioning of persons suspected of direct or indirect involvement in a criminal matter.

Criminal Investigative Data – Criminal investigative data means information collected in the course of an investigation where there are reasonable grounds to suspect that specific criminal acts have been committed by a person.

Criminal Intelligence Information – Criminal intelligence information means intelligence information which has been evaluated to determine that it is relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity.

Intelligence Assessment – Intelligence assessment means an analysis of information based in whole or in part upon intelligence data.

Intelligence Data – Intelligence data means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity.

Intelligence Information – Intelligence information means a general term used in this policy to refer to criminal intelligence information, intelligence data, or intelligence assessment.

Suspicious Activity – Suspicious activity means reported or observed incident, activity, or behavior that may be indicative of intelligence gathering or pre-operational planning related to criminal activity or other illicit intention. A report of suspicious activity is considered intelligence data.

Qualifying Offense – A qualifying offense means all class A-1 felonies, except drug offenses; felony offenses defined in NYS PL sections 130.95 and 130.96; or a felony offense defined in Articles 125 or 130 of the NYS PL that is defined as a class B violent felony offense in PL section 70.02.

Detention Facility – Detention facility means a police station, correctional facility, holding facility for prisoners, prosecutor's office or other facility where persons are held in detention in connection with criminal charges that have been or may be filed against them.

I. ORGANIZATION AND ADMINISTRATION

A. Commander of Investigations:

- 1. The Commander of Investigations shall be responsible for, but not limited to the following:**
 - a. Coordinate the efforts of the Criminal Investigation Unit (CIU), Children and Family Services Unit (CFSU), Community Response Unit (CRU), Forensic Investigation Unit (FIU), and Information Coordination Unit (ICU);**
 - b. Responsible for the overall investigative process within the department;**
 - c. Establish and maintain case screening and monitoring procedures within the department;**
 - d. Respond to major crime scenes or incidents and coordinate and oversee the use of investigative personnel as needed and, in the absence of a higher authority, take command of those scenes;**
 - e. Provide direct supervision to all detectives in the absence of the unit supervisors; and**
 - f. Coordinate efforts with other investigative agencies and the District Attorney's Office.**

B. Detective/Lieutenant of the Criminal Investigation Unit (CIU):

- 1. The Detective/Lieutenant of CIU shall be responsible for, but not limited to the following:**
 - a. Assign crimes against persons for investigation;**
 - b. Maintain crime files regarding crimes against persons;**
 - c. Maintain contact and share information with other agencies;**
 - d. Accumulate intelligence information on criminal activity for relay to department members; and**

- e. Develop and maintain administrative reports and files.

C. Detective/Sergeant of the Criminal Investigation Unit (CIU):

1. Detective/Sergeants of CIU shall be responsible for, but not limited to the following:

- a. Supervise the personnel and activity of CIU personnel assigned to their respective shift;
- b. Assist with the management of the detective division on their assigned shift;
- c. Assign cases for investigation;
- d. Monitor the progress of case investigation;
- e. Supervise criminal investigations;
- f. Respond to crime scenes, when necessary, and initiate investigations;
- g. Act as a liaison with other stations/units; and
- h. Act as a liaison with other law enforcement agencies.

D. Detectives of the Criminal Investigation Unit (CIU):

1. Detectives of CIU shall be responsible for, but not limited to the following:

- a. Maintain and update case files on all assigned cases;
- b. Be responsible for clearance of cases;
- c. Conduct independent investigations;
- d. Assist department personnel when requested;
- e. Maintain files on information developed by members of the department and outside agencies pertaining to criminal activities;
- f. Work with other law enforcement agencies in regards to arrest and conviction of all violators;
- g. Carry out assigned duties to eliminate illegal activities in the City of Albany;
- h. Accumulate intelligence information on criminal activities in the field for the use and for reference and exchange with other law enforcement agencies;
- i. Respond to major crime scenes/incidents, or any other call when so directed;
- j. Forward any information obtained regarding any crime or information that will be helpful toward another detective's investigation;
- k. Assist in all types of police work when requested to do so; and
- l. Carry out any lawful orders given by a supervisor.

II. ON CALL SCHEDULE

A. The CIU provides service on a continuous basis; twenty-four (24) hours a day, seven (7) days a week, and shall consist of three (3) rotations of eight (8) hour shifts.

1. Detectives shall respond to incidents that occur during their assigned shift.
2. Requests for a detective response during duty hours shall be made by the on-duty supervisor.

- a. Requests for assistance shall normally be made through the appropriate detective/sergeant.
 - b. The on-duty supervisor may request the assistance of a detective for any other matter deemed necessary.
3. The on-duty supervisor may discuss the circumstances with the responding detective to determine if he/she shall take charge of the case.

III. CONSTITUTIONAL REQUIREMENTS

- A. All persons involved in any way with the Albany Police Department shall be treated fairly, without prejudice, and shall be extended all rights guaranteed by the New York State and United States Constitutions.**
 1. Employees shall not coerce or otherwise obtain involuntary confessions from any person.
 2. If an individual is in the custody of the Albany Police Department, as indicated by the totality of the circumstances, an officer must advise them of their constitutional rights, afforded by *Miranda v. Arizona*, prior to any interrogation.
 - a. All individuals, taken into custody by the Albany Police Department, shall be issued *Miranda* Warnings prior to any interrogation, absent exigent circumstances representing a public safety exception.
 - b. *Miranda* warnings may be read from a department issued notebook, card, or form (e.g., *Defendant Statement*) in an effort to promote recall during any subsequent testimony and preserve the nature of the language utilized.
 - i. If the defendant is agreeable, officers may have him/her sign or initial the *Miranda* Waiver.
 - ii. Officers shall note the date and time of a *Miranda* waiver on the form or card, and/or request a dispatcher to note the time stamp of said waiver in the call ticket.
 - iii. Any signed or marked form utilized to secure a *Miranda* Waiver shall be secured as evidence, following guidelines set forth in GO 2.1.00 – Property and Evidence Control.
 3. Officers should attempt to record all interviews and interrogations utilizing APD audio/video equipment when practical.
 - a. Interviews or interrogations conducted by officers typically take place in the field, so officers shall attempt to utilize in-car audio/video recording equipment to document when practical.
 - i. Personnel shall request that said audio/video files be preserved by submitting an Albany Police Department Mobile DVR File Preservation Form, APD Form # [REDACTED], to the Office of Professional Services via departmental mail.
 - ii. Personnel shall refer to GO 3.3.10 – Mobil Digital

Video/Audio Recording Equipment for further directives.

- b. If an interview or interrogation is not recorded, it is recommended that another officer be present, if possible, to verify any statements made by either party.
 - c. Officers shall not attempt to record interviews of victims or witnesses unless otherwise dictated by the circumstances.
- 4. Detectives shall record interviews and interrogations, using APD audio/video equipment, when dictated by the circumstances.
 - a. Per NYS CPL 60.45, all custodial interrogations conducted by members of the Albany Police Department inside a detention facility, involving an individual suspected of committing a qualifying offense shall, whenever possible, be recorded utilizing APD audio/video equipment.
 - b. If the interview or interrogation is not being recorded, it is recommended that another officer or detective be present to verify any statements made by either party.
 - c. If an interview or interrogation is recorded by the in-room audio/video equipment, present in the detective's office, at least one copy shall be made of said recording and placed into evidence per current directives.
- 5. Pretrial publicity may prejudice a fair trial. All employees shall restrict the release of any information that may hinder a defendant's ability to receive a fair trial while complying with department procedures located in GO 2.5.00 – Public Information.
- 6. Officers conducting interviews or interrogations of non-English speaking persons shall ensure that a competent interpreter is utilized.

B. Interviews:

- 1. Interviews may be conducted with persons who may have knowledge regarding a police-related matter.
- 2. Following an interview, an Investigation Report or statement shall be completed as soon as possible by the interviewing detective(s) detailing the results of the interview. This Investigation Report or statement shall be part of the case file.
- 3. Interviews of juveniles shall be accomplished in a manner consistent with policies and procedures outlined in General Order 3.8.05 - Juvenile Operations.
- 4. Any person subject to an interview by the Albany Police Department shall be afforded all the protections guaranteed by the United States and New York State Constitutions.

C. Interrogations:

- 1. The purpose of an interrogation is to obtain information which will further the investigation. The purpose of an interrogation is to gather pertinent information, and not simply a means of eliciting an admission of guilt.

2. Following an interrogation, an Investigation Report or statement shall be made as soon as possible by the interrogating detective(s) detailing the contents of the interrogation. This Investigation Report or statement shall be part of the case file.
3. Interrogation of juveniles shall be accomplished in a manner consistent with policies and procedures outlined in General Order 3.8.05 - Juvenile Operations.
5. Any person subject to an interrogation by the Albany Police Department shall be afforded all the protections guaranteed by the United States and New York State Constitutions.

D. Access to Counsel:

1. Right to Counsel:

- a. When interrogated under custodial circumstances, an individual shall be advised of their right to counsel, via the issuance a Miranda Warning, before initiating any questions related to the criminal matter at hand. Said warnings may be read directly from an APD Miranda Waiver form or card. If the individual declines to waive their right to counsel, they shall be afforded the opportunity to speak to an attorney before any subsequent questioning occurs.
- b. When an individual requests to speak to an attorney before or during a custodial interrogation, the interrogator shall cease questioning, and the individual shall be afforded the opportunity to confer with, and have counsel present before any subsequent interrogation.
- c. If a subject in custody invokes their right to counsel, officers are still permitted to request generic pedigree information from the individual (e.g., name, address, medical screening questions) necessary to complete the booking process.

2. Waiver of Right to Counsel:

- a. Regarding custodial interrogations, individuals may waive their right to counsel, following the issuance of Miranda warnings. However, officers should be mindful that such waiver will be judged upon whether it was knowingly, intelligently, and voluntarily given. That is, it must be reasonably clear the individual understood each of the rights listed in a Miranda warning and freely chose to proceed absent the presence of counsel.
 - i. Some factors to consider when evaluating the knowing, intelligent, and voluntary nature of a waiver include, but are not limited to the individual's age, intellect, and background.
 - ii. Documentation of any waiver shall be indicated in the Investigation Report summarizing the interview.
- b. A suspect in custody may be questioned once they waive their right to counsel, following issuance of Miranda warnings. However, if the suspect subsequently invokes this right, the interrogation must then

- cease absent the presence of counsel.
- c. Any invocation of counsel by a suspect, following a valid waiver of Right to Counsel, must be unequivocal to prohibit further questioning. That is, the suspect must clearly articulate a request for an attorney in a manner which would lead a reasonable police officer, under the circumstances, to understand it as such.
- 3. Officers shall not interfere with a suspect's attempt to contact a lawyer, nor shall they interfere with an attorney's attempts to contact a client. An attorney may invoke a suspect's right to counsel on their behalf, under certain circumstances, but said invocation is only valid if the suspect acknowledges said attorney or law firm actually represents him/her.

IV. CASE SCREENING MANAGEMENT

- A.** Copies of reports requiring further review shall be forwarded to CIU.
- B.** Detective/sergeants shall decide the time and resources committed to criminal investigations. Commitment is based on, but not limited to:
 - 1. Established solvability factors;
 - 2. Degree of seriousness; and
 - 3. Resources.
- C.** The detective/sergeant may suspend investigative efforts when leads or solvability factors no longer exist. This may not apply to those cases of a serious or community sensitive nature.
- D.** Solvability factors which may require that a follow-up investigation be conducted may include, but are not limited to:
 - 1. Suspect is arrested;
 - 2. Suspect is named;
 - 3. Suspect is identified;
 - 4. Suspect can be located;
 - 5. Suspect vehicle can be identified;
 - 6. A major injury or dangerous felony; or
 - 7. The crime is of a community sensitive nature.
- E.** When conditional solvability factors exist, a detective/sergeant may direct that a follow-up investigation be conducted. Conditional solvability factors may include:
 - 1. Victim hospitalization;
 - 2. Traceable stolen property;
 - 3. Significant physical evidence present; or
 - 4. Crime suggests a pattern.
- F.** Besides solvability factors, other elements may be considered for case assignment such as:
 - 1. Documented departmental training/experience;

2. Documented training/experience of other law enforcement agencies;
3. Research and intelligence conducted within the department; and
4. Research and intelligence conducted in other law enforcement agencies.

G. Detectives shall be assigned to specific areas of investigation by the detective/sergeant.

1. The detective(s) assigned the case shall be the primary investigator and is responsible for the development of an investigative plan and all reports and documents related to the case.
 - a. An updated Supplement Report shall be forwarded to the detective/lieutenant, as well as records on each case being investigated.
2. Case assignment shall be based upon the detective's knowledge, skills, experience, and qualifications.

V. CASE MANAGEMENT

- A. Reports shall be reviewed each morning, Monday through Friday, by the ICU supervisor to identify the appropriate follow up assignment.**
 1. In the absence of the ICU supervisor, the senior analyst shall assume these responsibilities.
 2. These reports shall be forwarded to the CIU "B" shift sergeant.
 3. These reports shall be accessible to CIU personnel, administrative services personnel, and command staff, as needed, and shall contain the following information:
 - a. Case number;
 - b. Type of criminal activity;
 - c. Date case was assigned;
 - d. Case status;
 - e. Date of case status; and
 - f. Detective assigned.
- B. The detective supervisor shall maintain the case file in the early stages of the investigation and shall ensure that original documents consisting of statements, consent forms, photo arrays, lineup sheets, etc. are placed into evidence as required.**
- C. The detective supervisor shall review and forward all necessary and relevant documents to the Case Collation Coordination Information Unit (CCCIU) when appropriate so the case binder can be started.**
- D. Cases that have been identified for immediate assignment and follow-up assignment shall be forwarded to the appropriate shift supervisor.**
 1. The shift supervisor shall assign the case with vacations, regular days off, current case load, and major case involvement as a consideration.

2. The shift supervisor shall then cause RMS to be updated with the case detective assignment.
3. The current case follow-up memos issued by the detective/lieutenant shall be adhered to with all case assignments.
4. On all cases where a detective is called out on their shift or has been assigned a major case, the detective/sergeant is responsible for making a seventy-two (72) hour notification to the detective/lieutenant, through the chain of command, on the progress of the case.

E. Cases that have been identified as "named suspect cases" shall be forwarded to the CIU detective assigned to handle this case load. A call shall be made by the assigned detective to the victim to determine if they wish to cooperate.

1. When a detective is assigned a case by the detective/sergeant or their respective supervisor, he/she shall make every effort to make the initial contact with the victim or complainant shall take place prior to the end of the assigned detective's next shift, but no later than seventy-two (72) hours after being assigned.
2. If the victim does not wish to cooperate, this information shall be noted in RMS with the time and date that the victim was interviewed. The case shall be closed accordingly and there will not be a need for an Investigation Report or file folder.
3. If the victim is willing to cooperate, the assigned detective shall determine if there is enough information available to refer the victim to the South Station front desk to sign a Court Information and shall note the same in RMS.
 - a. This will allow SSTA and booking personnel to review this status in RMS.
 - b. There shall not be a need for an Investigation Report or file folder.
4. If the victim wishes to cooperate, and more investigative action needs to be conducted, the detective shall handle this and document the same accordingly.

F. Cases that have been identified as "phone cases" shall be forwarded to CCCIU, which shall be noted in RMS accordingly.

1. A follow-up phone call shall be made to determine if the victim wishes to cooperate or if there is any further information available.
 - a. If the victim still wishes no prosecution, or there is no further information available, the case shall be closed and this shall be noted in RMS.
 - b. There will be no need for an Investigation Report or case folder.

G. Case status:

1. The detective/sergeant shall determine the status, or change in status, of each case. The status may be reviewed by the detective/lieutenant at his/her discretion.

2. The decision shall be based on information provided in periodic progress reports by the investigating detective. The designated categories are as follows:
 - a. OPEN - Indicates a case is assigned to a detective and is actively being investigated.
 - b. CLOSED - Indicates a case has been satisfactorily concluded by one of the following:
 - i. Cleared by Arrest - The offender has been identified and held for prosecution;
 - ii. Cleared by Exception - The offender has been identified and no prosecution is initiated;
 - iii. Unfounded - Investigation has determined that no offense has occurred;
 - iv. Warrant Issued;
 - v. Complainant Failed to Pursue or Withdraw Complaint; and
 - vi. Office Case - Indicates that the case was assigned and investigated; all practical leads have been followed up and exhausted.

H. A detective supervisor shall approve all classifications listed above to ensure the report satisfies the criteria for the cessation of investigation.

I. When practical, crime victims shall be notified as to any change in status in the designation of their case. Notification shall be made by the primary detective as soon as possible and such notice shall be noted in the case file.

J. When a case is assigned for investigation, the Case Coordinator shall make copies of the initial paperwork related to the case (e.g., SIR, Investigation Report, etc.) and create two (2) case files, one (1) for the detective assigned the case and one (1) to be filed in CCCIU.

K. Each detective, when assigned a case for investigation, shall be required to maintain his/her case file, including the initial paperwork, as well as copies of other documents generated during the investigation.

1. This "investigative case file" shall be accessible to CIU supervisory personnel, but maintained in a secure location preventing disclosure to unauthorized personnel and the public.
2. It is the detective's responsibility to ensure that all information uncovered during their investigation is transmitted to the original case file.
3. Once the investigation is complete, the detective shall transfer all relevant documents to the case file folder.
4. All investigative notes taken by the detective during the investigation shall be transposed to a Supplemental Report. The original note sheets shall be kept secure for future court proceedings.
5. Once the investigation is complete and all documents have been transferred to the case file folder, the detective may purge their investigative file.

- a. Upon the case being closed and adjudicated in court, if applicable, the originals in the detective's case file shall be copied and placed into the CCCIU file.
- b. All original documents from the case file shall be placed into evidence or forwarded to Central Records.
- c. The detective's case file may be retained at the Detective Division for an appropriate period of time at the direction of the supervisor.
- d. The detective shall be responsible for the maintenance and security of his/her case file until such time the case file is boxed and transferred to the Albany County Hall of Records.
- e. The Case Coordinator shall be responsible for transferring closed case files from CCCIU to Albany County Hall of Records
- f. Once transferred to the Albany County Hall of Records, case files shall be retained and/or disposed of according to New York State Records Retention and Disposition Schedule MU-1.

VI. ACCOUNTABILITY/PRELIMINARY INVESTIGATIONS

A. Preliminary Investigation:

1. Generally begins with the arrival of the first officers at the scene of an incident and continues until investigative activity is postponed or transferred to other personnel, and includes all steps taken to investigate a criminal act recorded in the original offense report.
2. Except for cases initiated or reported directly to detectives, the primary assigned patrol officer shall be responsible for conducting preliminary investigations.
3. The detective supervisor shall be responsible for collecting all original documents, including any Investigation Reports, completed by patrol.
 - a. Investigation Reports completed by patrol officers shall be reviewed for immediate follow up, as necessary.
4. Further detailed information relating to preliminary investigations can be located GO 3.5.05 – Criminal Investigations – Operations.

B. Follow-up Investigation:

1. The follow-up investigation generally begins with the postponement of the preliminary investigation or reassignment and includes all steps taken to investigate an offense after the original report has been filed.
2. Follow-up investigative steps are outlined in G.O. 3.5.05 Criminal Investigations: Operations.

VII. HABITUAL/KNOWN OFFENDERS

A. Habitual/"Known" offenders are, for the purpose of this general order, those who have been recently or repeatedly arrested or have warrants issued for the following type of crimes:

1. Burglary offense;

2. Robbery offense;
3. Sex offense;
4. Theft;
5. Gun offense; or
6. Is a known gang member.

B. ICU shall be responsible for gathering crime analysis data to identify habitual/known offenders.

C. The Known Offenders with Warrants list shall be used to prioritize warrants and shall focus on the prosecution of the individual.

D. Investigations that involve known offenders shall be identified and managed as part of a career criminal approach.

1. V.O.I.D. (Violent Offender Identification Directive) list offenders are offenders whose crime is particularly violent or extreme, as well as offenders whose pattern of crimes indicates a need for prosecutorial awareness and focus.
2. The V.O.I.D. list shall be utilized to target specific "known offenders" in an effort to prevent or decrease gun violence.
 - a. The Enhanced Supervision Unit (ESU) may be deployed to coordinate outreach efforts to V.O.I.D. list offenders that present a lower risk.
 - b. CRU shall investigate V.O.I.D. list offenders that present a higher risk.

3. These offenders shall be identified and categorized according to:

- a. A review of the individuals criminal history;
 - i. Drug arrests;
 - ii. Disorderly Conduct/Riot arrests;
- b. A review of the individuals police contact history;
 - i. Recently a victim of a shooting;
 - ii. On scene of any previous shots fired incidents

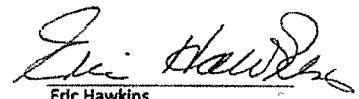
4. "Known" and "VOID" offender lists can be accessed on the City of Albany Police webpage under ICU resources – "Information and Investigation Resource Page".

5. CCCIU personnel shall be responsible for determining whether persons involved in an investigation are, or may become, "Known" offenders/"VOID" list offenders.

- a. In instances where there is no designated "case assignment", the arresting officer shall assume responsibility.

6. Investigating officers shall ensure the District's Attorney's staff assigned to prosecute cases involving habitual "known" offenders or "VOID" list

offenders is aware of the status of such offenders.



Eric Hawkins
Eric Hawkins
Chief of Police