Summary of Chief Hawkins Responses to Questions Posed in CFLJ’s May 11, 2020 Letter

Questions posed to the government officials in their letters are categorized into five areas: THE PROBLEM of structural racism and public safety in Albany; THE PARTICIPANTS who should be involved in addressing the problem; ACCOUNTABILITY; TRANSPARENCY; and ADVOCACY. (Any given letter may not include all five categories).

Accountability

When asked in previous correspondence if the community would have had more confidence in an investigation of the police shooting of Ellazar Williams if it had been conducted by the State rather than the APD, you responded that you could not comment because it was too speculative.

1. Given that the Community Survey conducted by CFLJ in 2019 indicated that only 15% of Blacks find the APD to be trustworthy, is it possible the community would have had more confidence in an investigation of the police shooting of Ellazar Williams if it had been conducted by the State rather than the APD?

Chief Hawkins responded that yes, that is possible.

When asked in previous correspondence to describe the circumstances under which you would ask the State to investigate a non-fatal police shooting, you replied that you are confident that the members of the Office of Professional Standards have the integrity, professionalism, and independence to fairly and objectively investigate non-fatal police shootings. CFLJ interprets this to mean that there are no circumstances under which you would ask the State to investigate a non-fatal police shooting.

2. Is it accurate to state that there are no circumstances under which you would ask the State to investigate a non-fatal APD shooting, in the absence of a State mandate requiring you to do so?

The Chief responded that his initial response stands, but that circumstances could arise in which he would consider asking an outside agency to assist with an investigation. He stated that those circumstances would be assessed on a case by case basis.

Note: CFLJ posted the Chief’s initial response on this topic on April 20, as follows:

April 20, 2020: Chief Hawkins responded that State officials currently investigate police shootings that result in the deaths of unarmed people, and that if an Executive Order is issued directing State officials to investigate all police shootings he will ensure that the APD fully cooperates with such investigations. The Chief’s response was silent on whether he would request a State investigation of any police shooting that did not result in death, absent an Executive Order requiring such an investigation.

1 CFLJ Note: Chief Hawkins’ responses were received and posted prior to the process modifications described in CFLJ’s Third Commentary.
Transparency

On the matter of transparency regarding the release of investigative reports of police misconduct, CFLJ asked both you and the Mayor when the APD will release its report regarding the “First Street Incident” --- promised for release by you by February 16, 2020. Both of you responded that the APD will immediately assess the release of the investigative documents associated with the “First Street Incident” upon the receipt of a Freedom of Information Law request, and that that process is consistent with the public release of official investigative documents for any incident. The need for a FOIL request for the release of an investigative report appears to be a change in APD practice, as a FOIL filing was not required when the APD released its investigative report concerning the police shooting of Ellazar Williams.

3. On what date did the APD initiate the practice of requiring a FOIL request for an investigative report produced by the Office of Professional Standards?

Chief Hawkins replied that the practice of requiring FOIL requests for official investigative documents is embedded in best practices for law enforcement agencies nationwide. The Chief stated that the practice existed in the Albany Police Department prior to his appointment as Chief.

4. The APD released its racial profiling and use-of-force policies, with redactions. If there is sensitive material in the “First Street Incident” report, why can’t the report be released with redactions?

Chief Hawkins responded that a request for any official investigative document can be made through FOIL. The Chief stated that the request will be assessed immediately upon receipt, and that the documents that are subsequently released will be appropriately redacted.

5. Doesn’t requiring ordinary citizens to go through the FOIL request process to obtain APD-generated reports contribute to the community’s mistrust of the police?

Chief Hawkins replied that “I neither agree nor disagree with this assertion.”

Advocacy

Many in the community are frustrated by the impact of Civil Rights Law 50-A on the ability of litigants to obtain critical information in matters of alleged police misconduct. Some legal scholars believe the law can be amended to allow litigants access to this critical information without compromising the privacy of individual personnel. Your response indicates a reluctance to consider modification of the law:

“…my position with respect to 50-A is consistent with my position on other laws. That is, I respect the legislative and judicial processes that have shaped the laws that govern this country, and I am committed to ensuring that the Albany Police Department operates in full compliance with those laws.”
A recent predecessor of yours, Albany Police Chief Brendan Cox, holds very strong opinions regarding Civil Rights Law 50-A, based on his decades of experience in the Albany Police Department. In a January 4, 2020 Times Union op ed titled “Open Misconduct Records to Improve Public Trust in Police,” Chief Cox wrote:

“New York’s 50-a law is a key barrier to law enforcement sharing information with the public. I will be the first to admit that this is not always a stance I took. I once believed that 50-a protected good cops from frivolous and misleading questioning by defense attorneys looking to do nothing more than mislead a jury about honest police work. Or, worse yet, muddy up a good cop’s name in the media. I know now that what 50-a actually does is lump the honest, hard-working police officers in with those officers who have betrayed the public trust by allowing their misconduct to be shielded by outdated legislation. Even the New York Department of State concluded that 50-a ‘undermines accountability, increases public skepticism, and foments distrust.’

Repealing 50-a is a critical step to protect the public safety of all New Yorkers. Hiding important misconduct information about a few officers makes the public suspicious of all officers. Repealing 50-a will allow officers to forge strong rapport with the communities we serve. The vast majority of officers go to work each day to serve our communities and do not abuse their authority — and they have nothing to worry about with the repeal of 50-a. In spite of misinformation being spread by some, repealing 50-a will not negate other privacy protections in state law — the home addresses and personal information of officers will continue to be protected. In fact, repealing 50-a can make police safer, because our officers are safest when community members have our backs.”

Given Chief Cox’s forceful and unequivocal advice based on decades of experience in the Albany Police Department,

6. If community consensus is reached at the fall “Recommitment to Community Policing” Symposium that a reexamination of Civil Rights Law 50-A is in order, would you support the community in urging that the law be modified?

Chief Hawkins responded that, based on his three decades in law enforcement, his initial response stands. He added that it would be helpful to include his entire response when quoting him on this issue. The Chief stated that the first sentence of his initial response “I have not had an opportunity to fully examine the legislative intent, history, and impact of CRL 50-A. Therefore....,” provides some important contextual information with respect to his position on this issue.

Note: CFLJ posted the Chief’s two previous responses on this topic as follows:

April 20, 2020: Chief Hawkins responded that he has not had an opportunity to fully examine the legislative intent, history, and impact of CRL 50-A. He stated that he respects the legislative and judicial processes that have shaped the laws that govern this country, and that he is committed to ensuring that the Albany Police Department operates in full compliance with those laws.

May 4, 2020: Chief Hawkins responded that his “initial response with respect to this question stands.”