

## RE: City Records

Julie Schwartz <[jschwartz@tmusallc.com](mailto:jschwartz@tmusallc.com)>

Wed 4/5/2023 2:43 PM

To: Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

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Hi Michele,

Most of the communications are via email or in-person. Let me gather them and I will get back to you.

Best,  
Julie

Julie L. Schwartz  
Managing Director of Investigations

[Jschwartz@tmusallc.com](mailto:Jschwartz@tmusallc.com)

917-657-6058

T&M USA, LLC  
230 Park Avenue, Suite 440  
New York, NY 10169

---

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Sent:** Wednesday, April 5, 2023 1:49 PM

**To:** Julie Schwartz <[jschwartz@tmusallc.com](mailto:jschwartz@tmusallc.com)>

**Subject:** Re: City Records

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Hi Julie -

Can you send me as attachments copies of your communications to APD/Corporation Counsel regarding case review delays and denied access to information/material? Thank you!

Sincerely,

**Michele Andre**

**Program Manager**

**Albany Community Police Review Board**

c/o Government Law Center, Albany Law School



# ALBANY LAW SCHOOL

2000 Building, Room 315, 80 New Scotland Avenue, Albany, NY 12208

Office: (518) 445-2383 | Work Cell: (518)-925-0354

Fax: (518) 445-2303 | Email: [mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)

Albanycprb.org | [Facebook](#) | [LinkedIn](#)

Pronouns: She/Her/Hers



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---

**From:** Julie Schwartz <[jschwartz@tmusallc.com](mailto:jschwartz@tmusallc.com)>

**Sent:** Wednesday, April 5, 2023 9:18 AM

**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Subject:** RE: City Records

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FYI

She keeps saying judicial subpoena's the law gives you administrative subpoena power, I wonder if she knows that. Again, she cannot blanket say she is not giving witness statements it should be evaluated on a case by case basis. Finally, if witness and victims statements are not in an IA case file then they are not doing a thorough investigation but rather a biased investigation and it is clearly personal, she is biased and she does not wish the Board to succeed.

Julie

Julie L. Schwartz  
Managing Director of Investigations

[Jschwartz@tmusallc.com](mailto:Jschwartz@tmusallc.com)

917-657-6058

T&M USA, LLC  
[230 Park Avenue, Suite 440](#)  
[New York, NY 10169](#)

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Sent:** Wednesday, April 5, 2023 9:11 AM  
**To:** Julie Schwartz [jschwartz@tmusallic.com](mailto:jschwartz@tmusallic.com)  
**Subject:** Fwd: City Records

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The latest

**From:** Marisa Franchini <[mfranchini@albanyny.gov](mailto:mfranchini@albanyny.gov)>  
**Sent:** Tuesday, April 4, 2023 8:23 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>; Paul Collins-Hackett <[batman@albanycprb.org](mailto:batman@albanycprb.org)>; David Galin <[dgalin@albanyny.gov](mailto:dgalin@albanyny.gov)>; Jasmine Higgins <[jhiggins@albanyny.gov](mailto:jhiggins@albanyny.gov)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Subject:** RE: City Records

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Chair,

It is our position that APD has disclosed every relevant record in its possession. Witness and victim interviews are not in the IA case file nor are they relevant to the investigations into the conduct of an officer. Additionally, their disclosure could endanger public safety. I will not take on the potential liability that the release of these records could open up absent a judicial order.

Public Officers Law 87 (2)(e) provides that records may be withheld that:

(e) are compiled for law enforcement purposes only to the extent that disclosure would:

interfere with law enforcement investigations or judicial proceedings, provided however, that any agency, which is not conducting the investigation that the requested records relate to, that is considering denying access pursuant to this subparagraph shall receive confirmation from the law enforcement or investigating agency conducting the investigation that disclosure of such records will interfere with an Last updated March 22, 2022 ongoing investigation;

deprive a person of a right to a fair trial or impartial adjudication;

identify a confidential source or disclose confidential information relating to a criminal investigation; or

reveal criminal investigative techniques or procedures, except routine techniques and procedures;

I want to remind everyone that this is not personal. We very much want the Board to succeed in their goal of completing thorough investigations. However, we just cannot endanger the lives of victims and witnesses by disclosing documents that are not relevant to the investigation. I do feel that the Board has all the records needed to

complete this task. I commend the Board for advocating for subpoena power and I encourage the use of such powers in this situation. I do foresee that judicial intervention will be necessary to resolve this situation, so at this time I do not think it is necessary to meet or to continue the back and forth.

Best,

Marisa A. Franchini  
Corporation Counsel  
City of Albany  
24 Eagle St.  
Albany, NY 12207  
518-434-5050  
[Mfranchini@albanyny.gov](mailto:Mfranchini@albanyny.gov)

*Due to my own personal choices about work/life/family balance you may receive this email at an odd time. Please do not feel any pressure to respond outside your normal work schedule.*

---

**From:** Matthew Toporowski  
**Sent:** Tuesday, April 4, 2023 6:49 PM  
**To:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; Marisa Franchini <[mfranchini@albanyny.gov](mailto:mfranchini@albanyny.gov)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com); Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>; Paul Collins-Hackett <[batman@albanycprb.org](mailto:batman@albanycprb.org)>  
**Subject:** Re: City Records

Hi Nairobi,

I disagree. The corporation counsel provides legal advice to the Board. The GLC serves as an admin agency and not as counsel. It's not our role to respond to the many legal questions the admin agency has. If the Board does not agree with our counsel it can seek outside counsel. We recommend outside counsel over the informal guidance the admin agency continues to provide.

I stated clearly in my prior email what our advice is to the Board: subpoena officers to compel testimony and subpoena documents that have not been voluntarily provided that the Board believes are relevant to their investigation. To the extent the Board wants outside counsel, it can seek and employ counsel, which it's in the process of via the recently issued RFP. This is all clearly spelled out in Local Law J.

This is not a trite email, but the practical guidance we are providing you. Local Law J empowers the Board to act when others do not. We are advising the Board to act if it deems there is information necessary to its ongoing investigations that it does not have outside of what has been voluntarily provided to it. The NYC CCRB routinely issues subpoenas to compel testimony and the production of documents. Subpoenas are a common and often necessary part of any investigation, which is why the power to do so was included in Local Law J.

Thank you.

-Matt

---

**From:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Sent:** Tuesday, April 4, 2023 4:42 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; Marisa Franchini <[mfranchini@albanyny.gov](mailto:mfranchini@albanyny.gov)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>; Paul Collins-Hackett <[batman@albanycprb.org](mailto:batman@albanycprb.org)>  
**Subject:** Re: City Records

***ATTENTION: This email came from an external source. Please do not open attachments or click on links from unknown senders or unexpected emails.***

Hi Matt,

My email must have crossed paths with this one. We have discussed the issue of speaking with the GLC previously. Patrick and the GLC are requesting information from you on behalf of the Board which is completely appropriate based on their role.

When Patrick, or anyone else from the GLC, is seeking much needed clarity, it is not going “back and forth”. As I wrote, however, I share Patrick’s concerns and have the same questions. Please, either you or Marisa, advise on these very important questions that we need answered to complete our investigations. Thank you.

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Sent:** Tuesday, April 4, 2023 4:23 PM

**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>

**Subject:** Re: City Records

As I said in my prior email I'm happy to discuss subpoenas with the Board. I don't plan to get into a back and forth with the GLC, however. Should the Board wish to consult me they can reach out. Thanks.

-Matt

---

**From:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>

**Sent:** Tuesday, April 4, 2023 4:13 PM

**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>

**Subject:** RE: City Records

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Hi Matt,

Thank you for forwarding the order. I do not see any language in it at all that restricts anyone other than defense counsel from doing anything. What language, if any, do you see in here that prohibits APD from giving information to CPRB?

The motion practice I was referring to was the possibility that the Board might seek a modification of the protective order to allow APD to disclose the documents in dispute to the CPRB. Unless you disagree, however, I don't see that the order restricts APD in the first place, so such modification is probably unnecessary.

Unless you disagree about the interpretation of the order, it now seems to me that the barrier to disclosure here is not, in fact, the protective order but the Corporation Counsel Office's direction to APD not to disclose information during ongoing investigations and/or where there are protective orders (even if those orders do not directly bind APD). Am I correctly understanding the current situation?

Regarding deadlines, I respectfully disagree that the CBA deadline would not have mattered because APD had decided not to issue discipline. Under section 42-345, the Chief *cannot* have made a final determination on discipline because the Board has not made a recommendation; the Chief could conceivably change his mind based on the Board's recommendation as long as that recommendation is sent within the CBA statute of limitations. Additionally, if the Board does recommend discipline of some kind, and the Chief does not change his mind, the Chief will need to

explain his decision not to issue discipline in writing. I presume that the Board would prefer that the Chief be required to provide a substantive explanation should that occur, rather than an explanation based on the CBA's statute of limitations.

Sincerely,

Patrick A. Woods  
Deputy Director  
The Government Law Center  
Albany Law School  
80 New Scotland Avenue, Albany, NY 12208  
Phone: (518) 445-3372 : (646) 894-4230  
Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)  
Pronouns: He/Him/His  
Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Tuesday, April 4, 2023 3:59 PM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com); Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>  
**Subject:** Re: City Records

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As a follow-up, attached is the protective order in the Eric Frazier case. So I misspoke. I'm not aware of a protective order in the Jordan Young case. My recommendation is still that the CPRB should subpoena documents that have not been turned over voluntarily by APD. My understanding is that they do not plan to turn over witness and victim statements in ongoing criminal matters. I believe they also do not plan to turn over documents in ongoing criminal matters subject to protective orders.

Separately while we're on this topic, if the CPRB seeks to interview officers they are going to need to subpoena them. The union is not going to make officers available voluntarily to be interviewed by CPRB. APD cannot compel them either, but the CPRB can compel testimony with a subpoena per local law J.

I've discussed subpoenas in the past briefly with the board in executive session. I know the CPRB has counsel or is seeking outside counsel, who can assist and weigh in, but I'm available until someone is retained if the Board wants to discuss.

Thanks,  
-Matt

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Tuesday, April 4, 2023 3:06 PM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>  
**Subject:** Re: City Records

Hello Patrick,

I recommend that the CPRB subpoenas any documents that it wants that have not been turned over voluntarily by APD. I do not think APD is going to turn over documents that are covered by the protective

order. In terms of the disciplinary deadline, my understanding is that APD is not disciplining any officers involved in the Jordan Young matter (which I think this email is directed towards that case) so I'm not sure there is a deadline for CPRB to recommend discipline. CPRB's authority to recommend changes to practice, protocol, etc. are not limited by a deadline.

Thanks,  
-Matt

---

**From:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Sent:** Tuesday, April 4, 2023 2:58 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>  
**Subject:** RE: City Records

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Hi Matt,

Just a reminder that the window for potential discipline under the CBA for any involved officers is going to be up in 2½ months. If the protective order does in fact bar disclosure to the CPRB, that may require motion practice to solve. If the CPRB is going to be able get access to those documents to complete its investigation and make a recommendation to the chief within the CBA's limits, the CPRB will need to know what it has to do to get them pretty urgently at this point.

Sincerely,

Patrick A. Woods  
Deputy Director  
The Government Law Center  
Albany Law School  
80 New Scotland Avenue, Albany, NY 12208  
Phone: (518) 445-3372 : (646) 894-4230  
Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)  
Pronouns: He/Him/His  
Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Tuesday, April 4, 2023 2:32 PM  
**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com); Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>  
**Subject:** Re: City Records

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I don't have it myself. I believe the commander is suppose to send a copy and I'll follow up with him and CC you. Thanks.

-Matt

---

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Sent:** Tuesday, April 4, 2023 11:25 AM



**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>

**Subject:** Re: City Records

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Good Morning, Matt -

I just wanted to follow up on this email.

Can you send me the protective order for the June 20 officer-involved shooting?

Thank you!

Sincerely,

**Michele Andre**

**Program Manager**

**Albany Community Police Review Board**

c/o Government Law Center, Albany Law School



ALBANY LAW SCHOOL

2000 Building, Room 315, 80 New Scotland Avenue, Albany, NY 12208

Office: (518) 445-2383 | Work Cell: (518)-925-0354

Fax: (518) 445-2303 | Email: [mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)

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**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Sent:** Tuesday, March 7, 2023 3:42 PM

**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>

**Subject:** Re: City Records

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OK - I'll follow up with them regarding this. Thanks.

-Matt

---

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Sent:** Tuesday, March 7, 2023 3:39 PM

**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; John Levendosky <[john@albanycprb.org](mailto:john@albanycprb.org)>

**Subject:** Re: City Records

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Hi Matt -

Thank you for your quick response!

Just to clarify, Commander Laiacona said that June 20 was subject to a protective order, not the Jordan Young case. T&M requested the police disciplinary files for both cases and is still awaiting OPS to provide them. The protective order should not limit the disciplinary files of the officers involved in the June 20, 2023.

OPS told T&M they were awaiting a response from Corporation Counsel to provide the OPS' interviews of officer(s) and witnesses; they are still waiting to receive them.

Michele

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Sent:** Tuesday, March 7, 2023 3:28 PM

**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>

**Subject:** Re: City Records

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Good afternoon,

On the issue of OPS providing OPS' interviews of officers during the OPS investigations, we did advise OPS that there is nothing in the CBA or civil service law that renders those interviews (or audio or transcription of them) confidential. These are OPS' interviews of officers during their investigation into misconduct.

The witness interviews/documents related to the criminal investigation/prosecution of Jordan Young sound like they are subject to a protective order. I have to review the protective order, which I don't have and was not aware of. I'll request it and circle back on this.

Thanks,  
-Matt

---

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Sent:** Tuesday, March 7, 2023 3:08 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Subject:** Re: City Records

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Hi Matt -

Would you happen to have any update on providing T&M the witness and police interview reports/summaries for the Jordan Young case? It is my understanding that you indicated that they should be released to them remotely. Can they be provided with the evidence as soon as possible?

T&M was informed that due to a protective order, APD cannot release the June 20<sup>th</sup> officer-involved shooting evidence. Can the court order be shared with T&M?

Thank you!

Michele

---

**From:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Sent:** Monday, March 6, 2023 9:52 AM  
**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Subject:** Re: City Records

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Thank you, Matt. This is very helpful.

---

**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Sent:** Friday, March 3, 2023 4:02 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Cc:** [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi

Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>

**Subject:** Re: City Records

Hi Matt -

I appreciate your help on this.

Update: Mr. Conroy said he got remote access. T&M informed me that their visit to headquarters yesterday was productive. The only outstanding items are the witness(es), officer interview and employee files for June 20<sup>th</sup> officer-involved shooting.

Can you ensure OPS uploads the remaining witness(es), officer interview and employees' files for T&M?

Michele

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Sent:** Friday, March 3, 2023 2:15 PM

**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>

**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>

**Subject:** Re: City Records

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You're welcome. Please keep me in the loop. I know OPS has staffing issues, but the information should be shared electronically. It's not cost effective for anyone to pay the investigators to travel...

Matthew Toporowski

On Mar 3, 2023, at 2:12 PM, Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)> wrote:

***ATTENTION: This email came from an external source. Please do not open attachments or click on links from unknown senders or unexpected emails.***

Matt,

Great. Thank you!

Sincerely,

Patrick A. Woods

Deputy Director

The Government Law Center

Albany Law School

80 New Scotland Avenue, Albany, NY 12208

Phone: (518) 445-3372 : (646) 894-4230

Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)

Pronouns: He/Him/His

Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Friday, March 3, 2023 2:06 PM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com); Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Subject:** Re: City Records

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Idk what they've been refusing to share, but yes it's Corp Counsel's position that they should share what they're required to under local law J with the board and the investigators electronically per the Confidentiality Agreement and we did tell them that. My understanding is they plan to.

If there's further issues I'm available. LMK. Thanks.

Matthew Toporowski

On Mar 3, 2023, at 1:00 PM, Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)> wrote:

***ATTENTION: This email came from an external source. Please do not open attachments or click on links from unknown senders or unexpected emails.***

Hi Matt,

Just for my clarity, are you saying that it is the City's position that OPS must electronically share the records that they have so far been refusing to electronically share with the Board's investigators/members and that OPS has told you they will now do so?

Sincerely,

Patrick A. Woods  
Deputy Director  
The Government Law Center  
Albany Law School  
80 New Scotland Avenue, Albany, NY 12208  
Phone: (518) 445-3372 : (646) 894-4230  
Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)  
Pronouns: He/Him/His  
Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Friday, March 3, 2023 12:50 PM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com); Stein, Leslie

<[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>

**Subject:** Re: City Records

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Good afternoon,

I've spoken with Marisa, and our opinion is that section 42-341(c) of the City Code "Member Responsibilities" that reads "Not remove any Police Department, Professional Standards, personnel or other confidential files, records or tapes from City offices except as authorized under this article" does not prevent the secure, electronic sharing of information required to be shared by Local Law J as that process was negotiated, outlined, and agreed to in the Confidentiality Agreement. We have advised OPS of our opinion, and our understanding is that they will continue to share information electronically.

Thanks,  
-Matt

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Friday, March 3, 2023 10:40 AM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Subject:** Re: City Records

Thanks Patrick. This is all helpful and I do not disagree with your assessment. I'm trying to get this resolved today and should respond back. The MOU does seem to make more sense now given the present situation. Let me get a response on the primary issue right now. Thanks.

-Matt

---

**From:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Sent:** Friday, March 3, 2023 10:33 AM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com) <[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>; Stein, Leslie <[lstei@albanylaw.edu](mailto:lstei@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Subject:** RE: City Records

***ATTENTION: This email came from an external source. Please do not open attachments or click on links from unknown senders or unexpected emails.***

Good Morning Matt,

Thank you for prioritizing this. In case it is helpful to the City's analysis of the relevant provisions of Part 33, here are my more global thoughts on the structure of the statute and OPS' current position on limiting remote access:

1. As was already part of our discussion, the more reasonable way to read § 42-341(c) is that "removal" means the physical relocation of original OPS records off-site, not the providing of remote access to those documents in a manner that leaves the originals safely in OPS's custody. The clear purpose of the provision in its statutory context is to prevent the potential loss of records, not to limit the manner in which CPRB may

access APD documents. If the City adopts that reading and OPS start's following the City's reading, the related issues I discuss below go away.

1. If OPS' position that "remove" encompasses giving remote access to documents is correct and the provision is controlling on remote access (more on that below), no remote access is permissible under the statute *at all*. Nothing in § 42-341(c) gives OPS or the Board discretion over which "Police Department, Professional Standards, personnel or other confidential files, records, or tapes" can and cannot be "removed." In fact, that provision uses the word "shall" which is generally understood to mean there is no discretion in the application of the provision (as opposed to "may"). Thus, if providing and accessing records remotely is within the meaning of "remove" and the provision applies, OPS and the Board have been acting illegally with any and all remote access to records thus far. That is troubling across a number of dimensions. Maybe most concerning is that the attorney for both sides, the Corporation Counsel's office, was an active participant in the discussions on remote access during the lengthy negotiations on the confidentiality agreement (where we all recall that this provision was discussed). The Corporation Counsel's office did not advise CPRB (or APD as far as I know) that there was no legal pathway for remote access under the statute and that the parties would be acting illegally if they proceeded to provide/use remote access.
1. Even if OPS' reading is correct, the statute does not limit remote access to OPS's file. As you know, § 42-341 has a caveat: "except as authorized under this article." There is a provision of Local Law J that, under OPS reading (but not mine), would be in direct conflict with 42-341(c) and consequently trump the prohibition on removal because it authorizes "removal" directly. Specifically, I'm referring to § 42-343(F)(4) which provides:

Upon receipt of a complaint, within the time frame allotted in accordance with any applicable police collective bargaining agreement, *OPS shall provide to the CPRB its entire investigative case file related to the complaint.* Thereafter, *OPS shall send any newly acquired evidence to the CPRB within five business days of the acquisition of the evidence.* If OPS makes any findings with respect to the complaint, *they shall send all such findings to the CPRB within five business days.* (emphasis added)

The plain meaning of "provide" and "send" require OPS to give either the original or a copy of the file and any new evidence to the CPRB within specific time-frames. There is no sensible reading of this provision that requires nothing more of OPS than to make only parts of its file and selected evidence *available* to the CPRB only at times and places of OPS' choosing. If the Common Council intended availability only, it could have used that language (as it did in the three provisions I discuss below).

1. Remote access was, to my recollection, discussed during the first post-Local Law J meeting with the Chief (which we all attended) and was understood to be a compromise method by which OPS could meet its disclosure requirements under § 42-343(F)(4). The idea was that by giving CPRB remote access to the entire case file on an ongoing basis, OPS's would thereby satisfy its dual obligations to "provide to the CPRB its entire investigative case file" and to "send any newly acquired evidence to the CPRB within five business days of the acquisition of the evidence." If OPS is

now unwilling to provide remote CPRB access to the entirety of its case file, then OPD is most likely currently in violation of its disclosure obligations under § 42-343(F)(4) for multiple complaints, if not all complaints filed after 1/1/2022. Other than allowing full remote access, I'm not sure how OPS can meet those obligations without providing the CPRB with copies and timely updates of its full investigative case files on an ongoing basis.

1. Only three provisions in Local Law J regarding APD disclosure obligations use the word "available" and they all pertain to specific kinds of information or personnel:
  - a. § 42-343(E), which requires OPS to make "any audio and video footage pertaining to the incident" available within 14 days of a CPRB request. If access is not provided in the 14 days, the OPS is required to explain itself *in writing* to both CPRB and the Common Council. It seems to me that the 14-day deadline here is specifically intend to ensure swift CPRB access to any video and audio that it wants, *before* OPS' obligation to "provide to the CPRB its entire investigative case file related to the complaint" has ripened;
  - b. § 42-343(F)(8), which requires the *Chief* to make available to CPRB any documentary information that the Chief discusses publicly or to the media, which is a separate disclosure obligation upon the *Chief* specifically relating to what he or she has publicly said about the an investigation. This is a separate obligation from *OPS*' broader disclosure obligations under the statute; and
  - c. § 42-343(F)(5), which requires the Chief to make an uninvolved, non-OPS "officer holding the rank of Captain or higher" be made available to the CPRB to advise on police policy, which does not relate to access to documents or recordings at all.

I hope those additional observations are useful as the City considers its official position on the meaning of § 42-341. I look forward to reading the City's analysis.

I also have a related suggestion to avoid situations like this in the future. As you know, most of the issues around APD transparency requirements in the statute were the subject of discussions either early on after Local Law J was passed, during the negotiations about the confidentiality agreement, or both. My recollection is that Nairobi asked the Corporation Counsel's office on several occasions to draft up a formal memorandum of understanding between APD and the CPRB to memorialize everyone's agreement on these issues in order to prevent problems like this one down the road. As you know, that document never came together. While it will obviously need to wait until after the current issue has been resolved, I respectfully suggest that a formal memorandum of understanding between APD and CPRB is still a good and necessary thing to avoid similar problems in the future.

Sincerely,

Patrick A. Woods  
Deputy Director  
The Government Law Center  
Albany Law School  
80 New Scotland Avenue, Albany, NY 12208  
Phone: (518) 445-3372 : (646) 894-4230  
Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)  
Pronouns: He/Him/His  
Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Thursday, March 2, 2023 4:46 PM  
**To:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)  
**Subject:** Re: City Records

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OK. I am working to resolve this I should have a response tomorrow to clarify this.

---

**From:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Sent:** Thursday, March 2, 2023 2:03 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)  
<[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>  
**Subject:** Re: City Records

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I spoke with Julie Schwartz and she shared that, as of yesterday, other than one arrest record, OPS has only shared body cam/video footage electronically. Julie and her team are actually in Albany today reviewing materials in person at APD Headquarters. I am not sure what OPS has provided them with today. This visit was arranged after many requests and issues with scheduling and what materials would be ready for review. This is a direct result of the interpretation of OPS regarding removal of records.

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Thursday, March 2, 2023 1:42 PM  
**To:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)  
<[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>  
**Subject:** Re: City Records

OK - Can you give me more detail on requiring the consultants to come to APD? Have they gotten anything electronically? I know the commander said some items he'd want to have them review in person, but he made it seem like there was plenty they could review remotely. It is problematic if they are traveling and billing when they could review remotely. That is a waste of money.

This is all helpful I'll get on this. Thanks.

-Matt

---

**From:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Sent:** Thursday, March 2, 2023 12:46 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>; [veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)  
<[veneilyagoodwin@gmail.com](mailto:veneilyagoodwin@gmail.com)>  
**Subject:** Re: City Records

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Hello All,

I am just catching up on this exchange.

Patrick, thank you for weighing in, I have the same recollection as you regarding this particular clause from the confidentiality agreement negotiations. We all agreed at the time. I further agree that clarification from Corporation Counsel is necessary here. So, yes, Matt please provide your formal written opinion so that the Board and OPS are clear how we should be operating.

Matt, to provide further background, this interpretation by which OPS is operating, which, as I said previously, is contrary to what all agreed upon previously, is causing significant a delay and resource waste in our process. Part of our concern is that our investigators are being required to travel to Albany to view what could be sent electronically and is likely sent to the DA's Office and OAG regularly. The Board does not have the time, given statute of limitations concerns, or the money to continue to operate in this manner.

Additionally, as we discussed in the meeting with you, Dr. V and I, this is the exact type of issue that the Board would expect Corporation Counsel to provide its objective legal opinion for the parties to abide by and not just lean on our individual interpretations. I am glad that you are now going to seek official guidance but I am concerned with your initial response that the matter is between the CPRB and APD. We need counsel to set forth the official interpretation of the law and advise when either party may be violating it.

Thank you.

---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Thursday, March 2, 2023 10:20 AM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Subject:** Re: City Records

Certainly. Let me run this up the flag pole to see what our official guidance on this is. This may take me a couple of days just FYI.

Thanks,  
-Matt

---

**From:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Sent:** Thursday, March 2, 2023 10:15 AM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Cc:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Subject:** RE: City Records

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Hi Matt,

Thank you for the clarification of your recollection. Could you share the position of the Corporation Counsel's office on the proper interpretation of the provision as currently written?

I ask because it seems to me that the official view of your office will be a necessary component of any push by the Board for statutory revisions designed to fix the problem. For example, if the Corporation Counsel's position agrees with APD's interpretation, providing that to the Common Council will help avoid questions about whether an amendment

changing the language of the provision is actually necessary. On the flip side, if the Corporation Counsel's office agrees with the interpretation that I have offered and APD is not following the Corporation Counsel's interpretation, then the necessary statutory change may be more along the lines of mechanisms designed to ensure APD's compliance with its disclosure obligations.

Nairobi, do you agree that something in writing from the Corporation Counsel's Office stating their interpretation as the attorney for both parties would be helpful?

Sincerely,

Patrick A. Woods  
Deputy Director  
The Government Law Center  
Albany Law School  
80 New Scotland Avenue, Albany, NY 12208  
Phone: (518) 445-3372 : (646) 894-4230  
Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)  
Pronouns: He/Him/His  
Zoom Meeting Room: <https://albanylaw.zoom.us/j/9240969585>.

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---

**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Sent:** Thursday, March 2, 2023 9:29 AM  
**To:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Cc:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>  
**Subject:** Re: City Records

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Hi Patrick,

I don't recall Commander Liacona agreeing to that. His recollection may be better than mine as to what he said or did so CPRB can feel free to follow up with him. I just don't recall him saying that specifically. I do recall him referencing this charter provision from time to time, which CPRB may be aware of as well, because he has referenced it a few times now. His recollection and whatever he agreed to on behalf of APD is what matters here as the agreement is between APD and CPRB. I just weighed in like you did. That being said, I don't think your interpretation of that provision is unreasonable particularly given the spirit of the confidentiality agreement and that nearly everything is transferred securely electronically these days. But at the end of the day this is between CPRB and APD. I'm happy to weigh in and help resolve any issues, if there are any, but the City Code says what it says, is likely dated, and revisions may need to be made to it just like Local Law J so we have more clarity.

Thanks,  
-Matt

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**From:** Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Sent:** Wednesday, March 1, 2023 5:53 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>; Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>

**Subject:** Re: City Records

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Matt,

My recollection is that during the negotiations on the confidentiality agreement this provision was discussed. My memory is that both you and Commander Liacona agreed with me that the term "remove" in that provision was properly understood to mean the taking of hard copy records off-site because the provision is intended to prevent the loss or spoliation of records. And that, consequently, there was agreement that the provision did not apply to allowing remote electronic access to records so long as the originals remained in OPS custody. If the provision meant anything broader, OPS could not legally provide remote access to (or copies of) any of those types of documents to anyone off-site even if it wanted to do so.

Do you have a different recollection of that part of the negotiation?

Sincerely,

Patrick A. Woods '12  
Deputy Director

The Government Law Center  
Albany Law School

80 New Scotland Avenue, Albany, NY 12208

Phone: [\(518\) 445-3372](tel:(518)445-3372) : [\(646\) 894-4230](tel:(646)894-4230)

Email: [pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)

[Zoom Office Hours are 10-11 AM on Fridays and by appointment.](#)

Pronouns: He/Him/His

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**From:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>

**Sent:** Wednesday, March 1, 2023 5:38:03 PM

**To:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>

**Cc:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>

**Subject:** Re: City Records

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Hi Michele,

Commander Liacona is referring to section 42-341(c) of the City Code "Member Responsibilities" when he has referred to that. That's my understanding in speaking with him. That section states:

"Not remove any Police Department, Professional Standards, personnel or other confidential files, records or tapes from City offices except as authorized under this article."

The other portions of Local Law J which require materials to be available to CPRB from OPS just says that - available. They don't say how, i.e., in by electronic means, hard copy review in person on City property, etc. So that is why the Commander has said they are going above and beyond what the City Charter says to make things more efficient for CPRB. That's my understanding and hopefully that all makes sense.

Thanks,  
-Matt

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**From:** Andre, Michele <[mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)>  
**Sent:** Wednesday, March 1, 2023 4:49 PM  
**To:** Matthew Toporowski <[mtoporowski@albanyny.gov](mailto:mtoporowski@albanyny.gov)>  
**Cc:** Nairobi Vives <[nairobi@albanycprb.org](mailto:nairobi@albanycprb.org)>; Woods, Patrick <[pwood@albanylaw.edu](mailto:pwood@albanylaw.edu)>  
**Subject:** City Records

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Good Afternoon, Matt -

Can you provide the Board with the citation and section of the Charter/City Code that says the records cannot leave City property?

Thank you!

Sincerely,

**Michele Andre**

**Program Manager**

**Albany Community Police Review Board**

c/o Government Law Center, Albany Law School

<image001.png>

2000 Building, Room 315, 80 New Scotland Avenue, Albany, NY 12208

Office: (518) 445-2383 | Work Cell: (518)-925-0354

Fax: (518) 445-2303 | Email: [mandr@albanylaw.edu](mailto:mandr@albanylaw.edu)

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Pronouns: She/Her/Hers



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