

**Governor Cuomo's Executive Order #203**  
**NYS Police Reform and Reinvention Collaborative**  
**Resources & Guide for Public Officials and Citizens, August 2020**

**SUMMARY**

**A. Purpose**

To foster trust, fairness and legitimacy within communities throughout our State and to address any racial bias and disproportionate policing of communities of color.

**B. Directive**

Each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law must perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.

**C. Overall Required Process**

- Review the needs of the community served by its police agency, and evaluate the department's current policies and practices;
- Establish policies that allow police to effectively and safely perform their duties;
- Involve the entire community in the discussion;
- Develop policy recommendations resulting from this review;
- Offer a plan for public comment;
- Present the plan to the local legislative body to ratify or adopt it, and;
- Certify adoption of the plan to the State Budget Director on or before April 1, 2021.

**D. Key Organizing Principles**

**1. Bring Your Community to the Table**

Key stakeholders who must be involved:

- Membership and leadership of the local police force;
- Members of the community, with emphasis on areas with high numbers of police and community interactions;
- Interested non-profit and faith-based community groups;
- The local office of the district attorney;
- The local public defender; and
- Local elected officials.

Consider including:

- Residents who have had interactions with the police;
- Residents who have been incarcerated;
- Any local police unions;
- Local education officials and educators;
- Local neighborhood, homeless, and housing advocates;
- LGBTQIA+ leaders and advocates;
- The Local Health Department and healthcare leaders and advocates;
- Mental health professionals;
- Business leaders;
- Transportation and transit officials; and
- Legal and academic experts.

## **2. Must run a transparent process**

- Making planning and deliberation meetings public.
- Polling and surveying the public for their views on specific issues, if feasible.
- Providing periodic updates as the planning process moves forward.
- Engaging local media.
- Making all research materials public.
- Having a plan to incorporate public comment feedback in the final plan.

## **E. Key Questions to be answered:**

### **1. How are you incorporating “Procedural Justice,” which focuses on the manner in which law enforcement interacts with the public?**

- What functions should the Police perform?
- Should you deploy social services personnel instead of or in addition to police officers in some situations?
- Can your community reduce violence more effectively by redeploying resources from policing to other programs?
- What function should 911 call centers play in your community?
- Should law enforcement have a presence in schools?
- What are the staffing needs of the police department the community wants?
- Should components of the police department be civilianized?
- How should the police engage in crowd control?
- Should the police be “demilitarized”?

### **2. Does your Police Department use these practices and, if so, which should be reformed, curtailed or discontinued?**

- “Broken Windows”
- “Stop and Frisk”
- Chokeholds and Other Restrictions on Breathing
- Use of Force for Punitive or Retaliatory Reasons
- Pretextual Stops
- Informal Quotas for Summonses, Tickets or Arrests
- Shooting at Moving Vehicles
- High Speed Pursuits
- Use of SWAT Teams
- No-Knock Warrants
- Less-Than-Lethal Weaponry such as Tasers and Pepper Spray
- Facial Recognition Technology

**3. To what extent is Law Enforcement utilizing the following strategies, which reduce racial disparities and build trust?**

- Using Summonses Rather than Warrantless Arrests for Specified Offenses
- Diversion Programs
- Restorative Justice Programs
- Community-Based Outreach and Violence Interruption Programs
- Hot-Spot Policing and Focused Deterrence
- De-Escalation Strategies

**4. Can Law Enforcement effectively identify, investigate and prosecute hate crimes?**

- Are members of your department trained to investigate hate crimes and interview members of minority communities and groups?
- What additional training and community resources can you draw on to enhance hate crime prevention and response?

**5. Have the following Community Policing techniques/strategies been instituted in your community?**

- Community outreach plans – These are plans for institutionalizing community engagement.
- Citizen advisory boards and committees – A community advisory board/committee is a group that meets regularly to provide advice and perspectives to executive staff in law enforcement agencies.
- Partnership with community organizations and faith communities
- Partnering with students and schools
- Police-community reconciliation – A process that seeks to improve strained relationships between police and communities of color
- Attention to Marginalized Communities, such as Limited English Proficiency Citizens, Citizens with communication disabilities, The LGBTQIA+ Community, Immigrant Communities
- Involving youth in discussions on the role of law enforcement agencies
- How can you develop officer training programs that reflect your community values and build trust between police officers and the communities they serve?

**6. How are you fostering community-oriented leadership, culture and accountability?**

- Is your leadership selection process designed to produce the police community relationship you want?
- Does your officer evaluation structure help advance your policing goals?
- What incentives does your department offer officers to advance policing goals?
- Does your hiring and promotion process help build an effective and diverse leadership team?
- What is your strategy to ensure that your department’s cultural-norms and informal processes reflect your formal rules and policies?
- How can leadership training improve community policing and strengthen relationships between your police department and members of the public?

**7. Are you tracking and reviewing use of force and identifying misconduct?**

- When should officers be required to report use of force to their supervisor?
- What internal review is required after a use of force?
- Does your department review officers’ use of force and/or misconduct during performance reviews?
- Does your department use external, independent reviewers to examine uses of force or misconduct?
- Does your department leverage Early Intervention Systems (EIS) to prevent problematic behavior?
- Does your department review “sentinel” or “near-miss” events?
- Does the department respond to questionable uses of force with non-punitive measures designed to improve officer performance?

- What does your department expect of officers who know of misconduct by another officer?
- Does your department have a clear and transparent process for investigating reports of misconduct?
- Does your department respond to officer misconduct with appropriate disciplinary measures?
- What procedures are in place to ensure that substantiated complaints of misconduct and settlements or adverse verdicts in lawsuits are used to reduce the risk of future misconduct?
- What controls are in place to ensure impartiality when reviewing potential misconduct or complaints? When appropriate, are cases referred to either the District Attorney or another prosecutor?
- Does your department expect leaders and officers to uphold the department's values and culture when off-duty?

#### **8. Do you engage citizen oversight and other external accountability?**

- Is there an easy, accessible and well-publicized process for members of the public to report complaints about police misconduct?
- Are investigation outcomes reported to the complainant? Are they reported to the public? Should the department or the citizen complaint review entity, if any, accept anonymous complaints?
- Does your local legislature engage in formal oversight of the police department? Should any changes be made in the legislature's oversight powers or responsibilities?
- Is your police department accredited by any external entity?
- Does your police department do an annual community survey to track level of trust?

If you are considering an entity outside the police department to review citizen complaints, here are some relevant questions:

- What level of review should it conduct? Should it review the findings of an Internal Affairs Bureau or conduct its own investigation?
- What power should it have to interview officers or other witnesses, to compel officers or other witnesses to be interviewed, and to review documents, recordings, interviews conducted by Internal Affairs or other evidence?
- Should it be empowered to impose disciplinary action, recommend disciplinary action, or simply to substantiate complaints?
- Should it be authorized to formally refer cases to the Attorney General or District Attorney?
- What mechanisms are in place to ensure subject and witness officers fully cooperate with civilian oversight investigations?

#### **9. How are you using data to guide policies, procedures and activity while enhancing public transparency?**

- What police incident and complaint data should be collected? What data should be available to the public?
- What policing activity data should be collected by your department? This could include data regarding shootings by officers, firearm discharges, civilian injuries, use of force incidents, and officer stops, searches, and/or arrests.
- Should this data include demographic data, which can be used to detect racial disparities and biases?
- Beyond disclosures required under state and federal law, what other policing data should be disclosed? Made public? Should this data be aggregate data or individualized data? Should individualized data be anonymized or redacted? How frequently should data be disclosed?
- Should the department make available to the public aggregate data on its review of use of force incidents, such as number of incidents reviewed, number found to be inconsistent with department policy or number referred for prosecution?
- Should the department make available to the public aggregate data about the number and disposition of citizen complaints, including the nature of any discipline imposed?
- How should your law enforcement agency leverage data to drive policing strategies?

- How can your police department demonstrate a commitment to transparency in its interactions with the public?
- How can your police department make its policies and procedures more transparent?

**10. How can your police department ensure adequate transparency in its use of automated systems and “high-risk” technologies?**

- What process does your department have in place for the adoption of new technologies? Does the process include the solicitation of stakeholder and researcher input? Is there a process for community input? Does the process include the creation and publication of clear policies that articulate how the technology works, how it can be audited, and how, where, when, and why it is used?
- Does your department perform a cost-benefit analysis when adopting new technologies? Does your department consider the risks of using a novel technology (unstudied effectiveness, potential biases and intrusion on civil liberties), as well as the ability of the technology to solve an existing problem?
- What is your department’s process for procuring or using a new technology? Does your department study the effectiveness of the technology and analyze potential biases?
- Does your department have policies or procedures for training officers on how properly to use new technologies?
- Does your department have policies in place to ensure that vendor contracts do not interfere with transparency?
- Does your department have a process through which residents can register feedback on a certain technology or request information on any personal data it has collected about them without their knowledge?
- Does your department have a policy for maintaining sensitive data or information?
- Is your department required to disclose the technologies its uses to the public? If so, does this disclosure requirement extend to technologies that were given to the police department (i.e., not procured)?

**11. Should your police department leverage video cameras to ensure law enforcement accountability and increase transparency?**

- When should officers be required to turn on their BWCs? When interacting with members of the public? When conducting a law enforcement investigation?
- When should officers be required to notify members of the public that BWCs are on? In private settings? In public settings?
- What should the penalties be for non-compliance?
- How long should the department maintain footage?
- Under what conditions should footage be accessible to officers, the public, or investigators?

**12. Are you recruiting a diverse workforce? Is training sufficient?**

- What are the demographics of your agency?
- What are the demographics of your community?
- Are those demographics aligned?
- What steps, if any, has your agency taken to increase diversity in the workforce?
- Can my officers and my community relate in terms of socioeconomic background? Life experiences? Any other metrics?
- What are ways in which you can re-evaluate hiring practices and testing to remove barriers in hiring underrepresented communities?
- How can you encourage youth in your community to pursue careers in law enforcement?
- What actions can your agency take to foster the continued development and retention of diverse officers?

- How can you develop officer training programs that reflect your community values and build trust between police officers and the communities they serve?
- What training policies can you adopt to ensure that police officers continuously receive high-quality, relevant in-service training sessions?
- How can your police department use its training programs to avoid incidents involving unnecessary use of lethal or nonlethal force?
- How can your police department use its training programs to avoid potential bias incidents and build stronger connections with communities of color and vulnerable populations?
- How can your training program help officers effectively and safely respond to individuals experiencing mental health crises or struggling with substance abuse?
- What practices and procedures can you put in place to measure the quality and efficacy of your police department's training programs?

### **13. What steps can you take to promote wellness and well-being within your police department?**

- Are there ways to address officer wellness and well-being through smarter scheduling?
- How can you effectively and proactively address the mental health challenges experienced by many police officers throughout their careers?
- How can you address the well-being of an officer after a traumatic event?

## **F. Suggested Phasing of the Planning Process**

### Phase 1: Planning (August-September 2020)

- Create a work plan for your process
- Coordinate with neighboring localities
- Convene key stakeholders
- Assess where you are now

### Phase 2: Listening and Learning (September-October 2020)

- Listening Sessions
- Engage Experts
- Request Comments and Information (Consider posting questions or prompts asking for written comments or suggestions)

### Phase 3: Draft a Plan (November-December 2020)

- Identify areas of focus
- Identify measurable goals
- Draft a reform and reinvention plan
- Keep the public engaged

### Phase 4: Public Comment and Ratification (January-March 2021)

- Release your draft plan for public comment
- Educate the public
- Revise the plan to incorporate public comment
- Ratify the plan through adoption by the local legislature before the April 1, 2021 deadline.

**Submit your certification (included in Appendix B of the Guidance Doc) that your locality has met the requirements of Executive Order No. 203 to the Division of the Budget by April 1, 2021. Must check the following boxes in certification:**

- The Local Government has performed a comprehensive review of current police force deployments, strategies, policies, procedures, and practices;
- The Local Government has developed a plan, attached hereto, to improve such deployments, strategies, policies, procedures, and practices (the “Plan”);
- The Local Government has consulted with stakeholders (including but not limited to: membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials) regarding the Plan;
- The Local Government has offered the Plan in draft form for public comment to all citizens in the locality and, prior to adoption of the Plan by the local legislative body, has considered the comments submitted; and
- The legislative body of the Local Government has ratified or adopted the Plan by local law or resolution.

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**G. The U.S. Department of Justice’s Office of Community-Oriented Policing Services recommends the following best community policing practices:**

1. Create a comprehensive community policing strategic plan.
2. Train all personnel on community policing – including overcoming distrust.
3. Foster an atmosphere of openness and transparency.
4. Adopt procedural justice as a guiding principle.
5. Prioritize law enforcement personnel safety and wellness.
6. Engage the community in a true partnership to address crime and disorder issues.
7. Treat every contact as an opportunity to engage positively with a community member.
8. Measure social cohesion and work to develop relationships.
9. Reevaluate metrics of community policing success.
10. Incorporate community policing measures into the performance evaluation process.