



City of Rochester

Community Response  
to Governor Cuomo's

# EXECUTIVE ORDER 203

Police Reform and  
Reinvention Collaborative

Executive Summary  
March, 2021



**B**lieve.



City of Rochester, NY  
Lovely A. Warren, Mayor  
Rochester City Council



## Executive Summary

As stated by Governor Cuomo, “Maintaining public safety is imperative; it is one of the essential roles of government. In order to achieve that goal, there must be mutual trust and respect between police and the communities they serve. The success and safety of our society depends on restoring and strengthening mutual trust. With crime growing in many cities, we must seize this moment of crisis and turn it into an opportunity for transformation.” With that said, Governor Cuomo issued Executive Order 203, requiring each local government with a police force in New York State to adopt a policing reform plan. This plan is the response to Executive Order 203 and the next critical step in Rochester’s efforts to rethink policing in the community. While much has been accomplished, there is still more to be studied and implemented after this report has been delivered.

In order to bring together all of the work currently being advanced in the city of Rochester around police reform, Mayor Lovely Warren formed a working group comprising representation from key groups involved in this work, including:

- The Commission on Racial and Structural Equity (RASE)
- The United Christian Leadership Ministry (UCLM)
- The Police Accountability Board (PAB)
- City Council
- The Mayor’s Office
- Rochester Police Department (RPD)

The working group met regularly to collaborate and bring in content that is relevant to the Governor’s Executive Order and the subsequently released *New York State Police Reform and Reinvention Collaborative Resources and Guide for Public Officials and Citizens* provided in August 2020. In addition, the City of Rochester engaged Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”), a recognized national expert in police reform to advise the City on reforms to the RPD. WilmerHale provided preliminary findings and recommendations to help inform the City’s efforts to prepare the submission required by Executive Order 203. Their work, however, is ongoing and will provide further guidance in the coming months.

The plan provides a description and assessment of the RPD operations, policies, and procedures before introducing recommendations for police reform in the last section of the plan. The recommendations are summarized below, organized by topic area.

### A. Accountability

1. Petition the State of New York to amend the Taylor Law and the Triborough Amendment<sup>1</sup> to allow the City to terminate RPD personnel immediately for cause and enable the City to develop a completely new collective bargaining agreement.
2. Release comprehensive statistics on the RPD’s internal investigations, as required by law.
3. Invest in whatever resources are necessary to release, as soon as possible, an online portal that will allow the public to review the disciplinary histories of individual officers, including comprehensive

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<sup>1</sup> Section 209-a.1(e) of the Taylor Law, known as the “Triborough Amendment,” makes it an improper practice for a public employer, or its agents, to deliberately “refuse to continue all the terms of an expired agreement until a new agreement is negotiated.”



information on officer disciplinary history in compliance with Article 86(6) and (7) of the Public Officers Law.<sup>2&3</sup> Note: Litigation, currently underway, will provide guidance on this topic in coming months.

4. Create strict disciplinary rules banning discriminatory enforcement patterns, (e.g., broken window theory, structural racism, racial profiling, stop and frisk, pretextual stops, etc. ) and enforce those rules using data gathering methods that reveal the enforcement patterns of individual officers. Utilize data that includes demographic information, for the purpose of officer accountability. Hold those accountable that violate disciplinary rules.
5. Fully comply with the Police Accountability Board's authority as outlined in Article XVIII of the City Charter.
6. Ensure that the RPD "After Action Reviews," which is completed when there is a major event (e.g., serious injury, in-custody death) are being effectively used. This review process documents what happened, how it happened, who needs to be notified, and what changes might be needed in policy/practice.
7. Advocate for NYS to institute a statewide police officer licensing or decertification program to ensure disciplined officers' records are known by potential future employers.

## B. Community Engagement and Programming

1. Advocate for more resources and financial support for programs such as Mental Health Programs, Youth and Recreation Programs, Job Development, Pathways to Peace, Conflict Resolution Programs, Rise Up Rochester, Roc the Peace, UCLM's Light the Way, Save our Youth, Squash the Beef, and other evidence-based programs that include oversight, evaluation, transparency, and training so that programs that are effective can be expanded and improved.
2. Implement and support programs that provide increased and effective community engagement. Work with leaders of existing programs to evaluate effectiveness and reach out to participants in these programs to see if they can generate ideas for increasing impact. Assess how the RPD and the City can offer to help build trust, transparency, and legitimacy within and through these programs. Help the program leaders with their volunteerism capacity through guidance on defining metrics for them to use in their own measure of success. Some of these programs include:
  - Clergy on Patrol
  - Community Volunteer Response Team
  - Police and Citizens Together against Crime
  - Police Citizens Interaction Committee
  - Police Training Advisory Committee

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<sup>2</sup> Pursuant to Public Officers Law Sections 86(6) and 86(7), law enforcement disciplinary records are defined as those created in furtherance of a law enforcement disciplinary proceeding. A law enforcement disciplinary proceeding is defined as the commencement of any investigation **and** any subsequent hearing or disciplinary action. Accordingly, complaints or investigations that did not result in a hearing or disciplinary action are not encompassed within the definition of law enforcement disciplinary records set forth in the Freedom of Information Law. Additionally, the Committee on Open Government has long opined that disclosure of employee misconduct allegations that are not sustained or do not result in discipline would constitute an unwarranted invasion of privacy. In light of the foregoing, there are no records that respond to your request for disciplinary records.

<sup>3</sup> See Appendix C for alternative opinion from the Rochester Police Accountability Board.



- ROC Against Gun Violence Coalition
- Attendance at Neighborhood Association Meetings
- GIVE Program
- UCLM Community Police Summits
- UCLM Community Justice Advisory Board
- Citizen's Police Academy
- No Mas
- Project TIPS
- Other Community-led support groups and initiatives

### C. Data, Technology and Transparency

1. Recognize the importance of using data to:
  - inform leadership and the community of crime trends and causal factors;
  - engage the community in collaborative problem-solving;
  - drive strategies to prevent crime, address crimes in progress, and to develop a response to trends and patterns;
  - ensure equity in the application of public safety;
  - identify training needs and programming;
  - properly assess and evaluate operational responses, organizational changes, technology use and implementation and officer wellness and,
  - make budgetary decisions about the organization.
2. Leverage RPD's existing technology and personnel to create a data-first culture. One which:
  - builds services on shared resources;
  - fosters efficient collaboration;
  - works seamlessly with modern visualization and analysis tools;
  - allows user focus on function and outcomes, removing technology lock-in;
  - lowers the barriers (cost and complexity) for integrations; and,
  - provides measures for data usage and civic engagement.
3. Allocate funds to boost support for the RPD Office of Business Intelligence and other citywide data analytics departments to ensure accurate data is released in a timely and accessible manner.
4. Mandate the collection and regular reporting of demographic information, allowed by law, of all individuals that officers interact with in arrests, traffic investigations, street stops, personnel complaints, and uses of force.<sup>4</sup> This data should be included in the RPD Annual Report, published on the RPD Open Data Portal. Demographic information can be utilized to inform leaders about biases related to the police, federal, state, and city governmental policies and practices.
5. Expand the RPD Open Data Portal and data sharing with information on police-citizen interaction types, demographics (i.e., age, gender, race) of people involved, type of response and whether force was used, along with all other data that will allow Rochesterians to better understand the nature of police response<sup>5</sup>, for the following:

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<sup>4</sup> Demographic information is not a required field in New York State's electronic ticketing system (TRACS). This would require a local policy that mandates demographic data be collected on the electronic traffic ticket, to the extent that the information is provided by the individual.

<sup>5</sup> Currently, the City is in the process of working with other agencies to be able to collect and provide this data, which requires data-sharing agreements



- calls for service, including through 911, 311, and 211 calls;
  - crimes, including low-level offenses (“Part II crimes”<sup>6</sup>);
  - arrests;
  - alternatives to arrest;
  - traffic/street stops, including issuance of warnings for traffic violations;
  - uses of force;
  - officer discharges of a weapon;
  - high-speed pursuits;
  - fleet vehicle accidents;
  - hate crimes;
  - assaults on officers;
  - firearms seized, including type, circumstance, origin, etc.;
  - search warrants;
  - investigative case management;
  - internal policy and procedures; and,
  - digital media.
6. Correlate the Open Data Portal’s data listed above with community surveys to assess way police approach and speak to individuals of color and the impact of the encounter on both the victim and the community.
  7. Include, on the Open Data Portal, to the extent available, if and how the RPD uses de-escalation tactics, including information on: (1) hours spent training officers on de-escalation tactics; (2) percentage of training devoted to de-escalation; (3) specific de-escalation tactics taught to officers; (4) what written and verbal policies relating to de-escalation the RPD has issued.
  8. Using the data collected and included on the Open Data Portal, assess the occurrences of “Stop and Frisk” activities.
  9. Include on the Open Data Portal, information on if and how the RPD uses “less-than-lethal” weaponry, including information such as data on: (1) relevant training procedures; (2) spending on such weaponry; (3) use and equipment rates; (4) related injuries; (5) the cost-benefit analyses the RPD uses to justify the training regarding, purchase of, and use of such weaponry; and (6) verbal and written instructions about how to use such weaponry.
  10. Include, on the Open Data Portal, to the extent available, past and present use of no-knock warrants, including the rejection rates for no-knock warrant requests, claims against the city for personal injuries or property damage linked to no-knock warrants, and statistics regarding raids involving no-knock warrants that were executed at the wrong location.
  11. Include on the Open Data Portal the number of citizen complaints to the PSS, their disposition, and the time elapsed to disposition.
  12. Include on the Open Data Portal, information on the training and directions officers receive regarding whether and how to address low-level offenses (“Part II Crimes”). Conduct an assessment

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<sup>6</sup> The Federal Bureau of Investigation’s (FBI) Uniform Crime Reporting (UCR) program includes data from more than 18,000 city, university and college, county, state, tribal, and federal law enforcement agencies. The program has been collecting crime statistics since 1930. The Rochester Police Department participates voluntarily and submits crime data through the New York State UCR program. In the UCR program crimes are broken into two major categories: Part I Index crimes (Violent: Murder, Rape, Robbery, Aggravated Assaults, Property: Burglary, Larceny, Motor Vehicle Theft) and Part II crimes (all other offenses).



of all calls for service and create a process for disclosing the percentage of officer time spent addressing these low-level offenses.

13. Include, on the Open Data Portal, to the extent available, information on SWAT training and SWAT activity, including the use of SWAT for hostage or active shooter situations, as opposed to search warrant execution.
14. Explore the availability of historical crime data and determine the feasibility of including that on the Open Data Portal.
15. Digitize officer training manuals and post them on the Open Data Portal. Include hours per training session, how officer training is reinforced, how often officers face discipline for failing to follow training rules, whether and how the RPD addresses race, ethnicity, gender, LGBTQ individuals, and religion, and how training addresses on-the-job trauma.
16. Inform the community about revenue the City generates from traffic tickets and code enforcement, demographics of those subjected to this kind of enforcement, the difference between what violations people are ticketed for and what violations people are pleading to, and whether the City is using this kind of enforcement to fill budget gaps.
17. Collaborate with other city agencies to comprehensively report data and information in a coordinated way. These other agencies include the Emergency Communications Department, the City Information Technology Department, Monroe County Sheriff, Monroe County District Attorney's Office, etc.
18. Work toward creating a dataset that includes RPD staffing and budget information, such as the historical size and budget of the RPD, comparative data that allows Rochesterians to compare the RPD's operations and per-resident staffing levels to other communities, and program-specific budget and staffing data that will reveal the RPD's public safety priorities.
19. Publish anonymized aggregate data on how officers who are Black and Brown, women, and LGBTQ populations are disciplined, promoted, and terminated.
20. To the extent practicable, report on per-officer spending on trauma-related support, the rates at which officers use trauma support, and the incidents of domestic violence, workplace harassment, and other outcomes of untreated trauma; data on number of officers who claim disability for injuries stemming from incidents where civilians were also injured; number of civil and criminal cases filed against officers, along with case disposition and settlement data; number of cases where felony for causing an injury to an officer was filed, nature of injuries to officers in such cases, and nature of injuries to civilians in such cases.
21. Include on the Open Data Portal, the contracts and maintenance agreements related to the purchase and use of advanced technologies such as ShotSpotter, Surveillance technology/programs, and Body-worn cameras.
22. Improve the use and purchase of technology.
  - a. Analyze new technology for how it may cause or perpetuate biases. While the RPD anti-bias policy governs employee actions with technology, examining the potential for bias inherent to the technology is not currently practiced prior to acquiring technology.
  - b. Create policies and data-release procedures that allow the public to monitor the RPD's justifications for, purchase of, and use of all its technologies, including ShotSpotter.
  - c. Use the RPD's IAPRO early warning software to its fullest capacity to ensure any personnel concerns are identified as quickly as possible and addressed. The corrective measures should then be shared with the Police Accountability Board for follow up.



- d. Recognizing the problems created by the City of Rochester's former red light camera program, examine the use of any technology that will decrease the necessity for direct officer / citizen interaction for enforcement purposes so long as any technology is universally deployed and does not disproportionately impact one demographics of the City of Rochester.
  - e. Expand the City of Rochester's Blue-Light camera program, being mindful of future camera placement and use that does not disproportionately impact Rochester's citizens.
  - f. Fully utilize a new feature of the City's IAPRO technology that would allow for use of force tactics to be researched and publicly reported, which shall include what force tactics RPD officers are using (including, but not limited to, breathing restrictions), how often those tactics are being used, the racial and ethnic demographics of individuals those tactics are being used against, the location of the incident, the written and verbal instructions that determine how officers choose what tactics to use, when those tactics cause injuries, and whether the internal review process that was conducted after the use of a given tactic.
23. Improve the use of body-worn cameras.
- a. Support UCLM's Community Justice Advisory Board (CJAB) to engage in on-going monitoring of the utilization of the RPD's BWC program. This advisory board has been engaged in this task for over three years and should continue with Mayoral support. The CJAB should also develop an annual report of the BWC program, to be presented not only to the RPD, but to appropriate community bodies.<sup>7</sup>
  - b. Using existing RPD funding, provide the training and resources to ensure officers use their cameras as trained.
  - c. Measure the effectiveness of the BWC program, using agreed upon metrics such as:
    - reduction in use-of-force incidents over time;
    - reduction in citizen complaints over time;
    - proven value of BWC footage in court cases; and
    - surveys of participating officers and of the community itself.<sup>8</sup>
  - d. Find a new BWC vendor that can provide the technology necessary for improving the RPD's ability to collect and use data from BWCs. Collecting the appropriate data in order to evaluate the effectiveness and compliance with the Department's policies is obviously an important part of the BWC program.
24. Pursue funding to add dash cameras, particularly those that have video buffering and are activated automatically when vehicle lights or sirens are turned on, to both capture what is often a contested point in a defendant's case and limit officer discretion. Adding dash cameras would provide crucial additional evidence of what occurred.<sup>9</sup> Adding dash cameras would also require purchasing additional data storage capacity.

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<sup>7</sup> *Reform Proposals*, United Christian Leadership Ministry of WNY, Inc., December 2020, p. 29. (Modified through a comment from Reverend Stewart, UCLM, on February 8, 2021.)

<sup>8</sup> *Reform Proposals*, United Christian Leadership Ministry of WNY, Inc., December 2020, p. 31.

<sup>9</sup> Executive Order 203 Report, Monroe County Public Defender's Office, March 1, 2021, p. 16



## D. Fostering a Community-oriented Culture

1. Continue furthering the work of the Task Force on 21st Century Policing, which leads with a philosophy that includes a sense of humility and empathy and sets the stage for adopting community-oriented policing leadership.
2. Attempt to collect anonymous information from current and former officers to determine their experiences with oppression on the force; ask these populations what policies and practices would (or would have) made their work healthier and free of racism, misogyny, homophobia, and transphobia; and release anonymized aggregate data on how these officer populations are disciplined, promoted, recruited, and terminated.
3. Fund policies and practices that begin to inoculate the RPD from systemic oppression. These practices should include: educating officers using immersive training methods that teach how systemic racism and other forms of structural oppression, as opposed to mere “bias” or “prejudice,” can influence policing practices; reinforcing this training throughout officers’ careers; testing officers on their knowledge and providing assistance as necessary; and, creating and enforcing disciplinary rules that combat racism, misogyny, and homophobia.
4. Monitor state and federal legislative actions that deal with officers who support or engage with hate and/or extremist groups (e.g., white supremacist groups, domestic terrorists, religious extremists, and other groups).

## E. Officer Wellness

1. Proactively conduct routine wellness needs assessment surveys with RPD officers. Law enforcement agencies and officers both need to have a much better understanding of many potentially deadly concerns such as, cumulative career traumatic stress, PTSD, suicidal ideation, depression, and alcohol abuse, amongst others. This process may start with a needs assessment survey to gauge specific needs of officers. Using the survey, along with a program evaluation of the current program, the department can begin to identify the needs of—and enhance—the existing wellness program. In addition to the department’s existing EAP, other mental health programs should be considered for implementation. These programs need to be proactive and focus upon early intervention and early detection.
2. Conduct RPD fitness and annual psychological evaluations. The inherent stress and trauma associated with a career in law enforcement contributes to high rates of alcoholism, substance abuse, domestic violence, and suicide of police officers. Rochester has not been immune to the tragic loss of officers to suicide. RPD officers need to be physically, emotionally and psychology well. To that end, the RPD, while being cognizant of the collective bargaining implications, should examine requiring officers to maintain an agreed upon level of fitness. Furthermore, RPD should consider requiring officers to receive annual or bi-annual psychological evaluations to determine their psychological and emotional well-being and enhance peer support efforts and officer assistance programming.
3. Provide trauma-related officer support. The City should consider reallocating existing RPD funding to significantly increase funding for training, monitoring, prevention, and response systems that protect officers, their families, and the people they serve from officers’ stress and trauma. The community should be educated on what trauma, stress, and other mental health impacts officers have to experience by merely doing their jobs – especially officers who are Black and Brown, women, and members of the LGBTQ community. Officers carry heavy burdens and frequently deal with trauma. The statistics regarding officer divorce, addiction, and other emotional issues are well



known. De-escalating issues in their lives should be at the core of de-escalation [training].<sup>10</sup> The City should release data on per-officer spending on trauma-related support, the rates at which officers use trauma support, and the incidents of domestic violence, workplace harassment, and other outcomes of untreated trauma.

4. Conduct in-service training to familiarize officers with how all the dimensions of officers' lives are one interdependent system and how deficiencies in any one dimension can create or exacerbate problems in other dimensions. In-service training can help officers and their families not only identify, but also problem-solve issues that hurt their overall wellness and well-being. These types of programs coincide with the recommendations from the Department of Justice (DOJ) and the Bureau of Justice Statistics (BJA) report to Congress in 2019 regarding the 2017 Law Enforcement Mental Health and Wellness Act.
5. Consider Mindfulness Training for RPD officers as a wellness strategy. Branded as Mindful Badge training by a former Police Lieutenant Goerling, this training has been studied to understand wellbeing measures such as:
  - The impact of a constant state of hyper-vigilance on officers;
  - Cortisol awakening response;
  - Health outcomes among Officers.

Mindful policing has the potential to transform the approach to officer wellness, while also impacting police reform goals such as implicit bias training; de-escalation/Use of Force; maintaining empathy, compassion and reverence for all of humanity/life. Mindful Badge studies show the following benefits, and they show that continued practice is needed to sustain these benefits. In other words, outcomes diminish if skills aren't practiced.

- significant increases in resilience, mental health and emotional intelligence;
  - significant decreases in sleep disturbances, anger, fatigue, burnout and general stress;
  - reduction in the levels of the stress hormone cortisol;
  - Officers reported less difficulty with emotional regulation, organizational and operational stress.<sup>11</sup>
6. Consider creating a wellness unit in the RPD. Another increasingly used program or initiative in departments is the creation of a Wellness Unit in order to proactively assist officers with their wellness and well-being. As an example, the San Diego Police Department (SDPD) established a Wellness Unit in 2011. The SDPD's Wellness Unit consists of four full-time Officers and Sergeants with the goal of training on—and connecting Officers with—services to improve their emotional and physical well-being. The SDPD's Wellness unit also manages the Department's Peer Support Program, Police Chaplain Program, Alcohol/Substance Abuse Programs, and psychological services; and, provides instruction and services to family members of Officers, as well as the Department's civilian employees.<sup>12</sup>
  7. Consider appointing a Chief Resiliency Officer, similar to the program started by New Jersey Attorney General Grewal. The Chief Resiliency Officer is responsible for ensuring the implementation of the New Jersey Resiliency Program for Law Enforcement. This statewide program

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<sup>10</sup> *Reform Proposals*, United Christian Leadership Ministry of WNY, Inc., December 2020, p. 14.

<sup>11</sup> *Reform Proposals*, United Christian Leadership Ministry of WNY, Inc., December 2020, pp. 19-20

<sup>12</sup> Albreksten, S. (n.d.). *San Diego Police Wellness Unit Overview*. Retrieved from <https://www.californiapolicechiefs.org/assets/news/Executive%20Summary%20Wellness%20Unit%20San%20Diego%20PD.pdf>



aims to help officers “to become better equipped to handle the daily stress of police work that, when left unchecked, may lead to physical ailments, depression, and burnout.”<sup>13</sup>

8. Promote peer support as an effective method to assist officers throughout their career, but more importantly, following a traumatic event. Many officers may be hesitant to utilize outside counseling services following a traumatic event, however many are willing to turn to their fellow officers to seek support. Peer services have a significant and positive impact increasing officer morale and ameliorating post-traumatic stress.<sup>14</sup> Peer support services are supported and recommended by the Department of Justice, the IACP, FLETC, Lexipol, as well as by Mental Health Professionals and Medical Doctors. In addition, overwhelming majority of police wellness programs consist of peer support as a critical element of their programs. For example, the Asher Model Seven Point Approach to Culture of Wellness developed by the Pinole Police Department lists peer support as its third point of their program’s seven-point star.<sup>15</sup>
9. Utilize Smartphone applications as an increasingly common method to assist Officers after a traumatic event. An example of a widely used app is the CordicoShield Employee Wellness App. Cordico provides confidential and anonymous access to powerful resources and self-evaluations 24/7/365 via a smartphone app that is custom tailored to a specific department. Several departments nationally have provided this resource as an option to their officers. In August of this year, the Syracuse Police Department began providing access to their department-specific app to their officers via the CordicoShield Employee Wellness App.<sup>16</sup> Cordico has contracted Kevin Gilmartin, PhD to assist in the development and continued support of the CordicoShield Employee Wellness App. Dr. Gilmartin is perhaps best known for his book, *Emotional Survival of Law Enforcement* (2002) which is commonly cited and used throughout departments nationally in wellness programs.
10. Provide Chaplain services as another method to provide support to officers following a traumatic event. These services are non-denominational, are spiritual, but not necessarily religious. Since Chaplains are ordained, the use of Chaplain services is both confidential and privileged in nature.

## F. Police Policy, Strategies, and Practices

1. Place the sanctity of human life at the core of RPD’s policing philosophy. Current RPD policy does not include an express sanctity of life provision.
2. Based on data collected, assess whether low-level offenses are being disproportionately applied in Rochester. If they are, then create policies and strategies to cease this activity and create disciplinary rules, policies, and practices that ensure the RPD’s low-level enforcement patterns and priorities are equitable.
3. Periodically survey the public to shed light on how they feel the police profile black and brown people for minor violations.

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<sup>13</sup> Crespolini, R. (2020, November 23). *Training Helps Mendham Officers Handle Mental Health Challenges*. Retrieved from <https://patch.com/new-jersey/mendham-chester/training-helps-mendham-officers-handle-mental-health-challenges>

<sup>14</sup> Willis, D. (2014). *Bulletproof Spirit: The First Responder’s Essential Resource for Protection and Healing Mind and Heart*. Novato, CA: New World Library.

<sup>15</sup> Gang, N. (2019). *Aher Model 7-Point Approach to a Culture of Wellness*. Retrieved at <https://www.cordico.com/2020/09/23/asher-model-7-point-approach-to-a-culture-of-wellness/>

<sup>16</sup> Baker, C. (2020, August 20). *Syracuse Police Department to Adopt New Mental Health Service for Officers* [webpage]. Retrieved at <https://www.syracuse.com/news/2020/08/syracuse-police-department-to-adopt-new-mental-health-service-for-officers.html>



4. Mandate the completion of incident reports that include demographic data to better track stops made by the RPD.
5. Develop a policy limiting the use of spit socks or hoods and outlining strict guidelines for appropriate and safe use of spit socks if and when they are used.
6. Create and enforce laws and policies related to the use of breathing restrictions in accordance with New York State law and create training and disciplinary rules that will be enforced if there are violations of the policies.<sup>17</sup> New policies should ban applying significant body weight on a handcuffed or restrained person (including a person restrained by a “spit sock”) unless exceptional circumstances are present that pose an immediate threat of harm to the person or others and no reasonable alternative is available.
7. Revise policies and practices pertaining to RPD’s Use of Force and De-escalation Strategies.
  - a. Revise General Order 340, “Use of Deadly Physical Force” to set the standard for any use of force at all— clearly stating that force is only to be used when necessary, and if it is used at all, to be used in proportion to the threat. Integrate into the policy other force-related policies to address all permissible uses of force and any limitations on those uses of force. Explicitly state in the policy the situations in which force should never be used, including, for example, using force as punishment or in retaliation against a subject.
  - b. Integrate the “Duty to Intervene” into RPD’s restructured use of force policy as other model policies recommend and police departments have done. In addition to incorporating the “Duty to Intervene” into a restructured use of force policy, implement policies to protect from retaliation any members who act to prevent excessive uses of force or other misconduct.
  - c. Make clear that Department policy requires officers to attempt to de-escalate their encounters with members of the public. Require officers to use de-escalation techniques to reduce the use of force required, or to prevent any use of force at all, so long as it is safe for them to do so.
  - d. Support the Crisis Intervention Team (CIT) in the de-escalation support it provides to the community. The CIT should continue to work with 911 dispatchers to respond to emergency calls where they may be able to help tense situations from becoming worse.
8. Prohibit officers from firing at moving vehicles except (1) to counter an imminent threat of death or serious physical injury to the officer or another person, by a person in the vehicle, other than the vehicle itself or (2) to counter a situation where the officer or others are unavoidably in the path of the vehicle and cannot move safely. Officers should avoid positioning themselves in the path of a moving vehicle where they have no option but to use deadly force.
9. RPD and the City are currently reviewing the Department’s policies and practices related to Less-Than-Lethal Weapons. These weapons were intended as a way to avoid the use of deadly force, but are subject to abuse. RPD and the City are working to consider and implement changes to policy, practice, and trainings regarding these weapons. The new policies and strategies for the use of Less-Than-Lethal Weapons include:
  - a. Gathering data on the use of these weapons, whether they should be phased out in whole or in part, what alternatives exist, and how officers are trained on the alternatives so that they have tools to safely do their jobs while protecting the public and members of the community.

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<sup>17</sup> In summer 2020, the State of New York passed the Eric Garner Anti-Chokehold Act, which made it a felony for a Police Officer to “us[e] a chokehold or similar restraint and thereby caus[e] serious physical injury or death to another person.”



- b. Mandating that less-than-lethal weapons only be used as a last resort once other alternatives have been reasonably exhausted and multiple warnings given.
  - c. A ban on the use of chemical weapons, like tear gas, for peaceful crowd control, and restricting their use to the case of riots and violent demonstrations and only when a command-level decision has been made to deploy them.
  - d. Phasing out the use of chemical irritants, as alternatives are developed.
  - e. Ban the use of irritants on minors 15 and under. Ban the use of irritants on all other minors and elders unless exceptional circumstances are present that pose an immediate threat of death or seriously bodily harm to the elder, child or others and no reasonable alternative is available. Support NYS legislation to accomplish these bans.
  - f. Ban the use of irritants when a person is restrained (including a person restrained by a “spit sock”) unless exceptional circumstances are present that pose an immediate threat of death or seriously bodily harm to the person or others and no reasonable alternative is available.
  - g. Conducting a cost-benefit analysis on the use of flash bangs and sound cannons and develop alternatives to the use of these devices for dispersing crowds.
  - h. Requiring the volume set for the sound cannons/flash bangs shall be such that it will not cause long-term damage to a person’s hearing.
  - i. Consider banning other “less-than-lethal” weaponry on a weapon-by-weapon basis. Before doing so, the City should hold public education/deliberation sessions that make the costs and benefits of these weapons clear and conduct public surveys to determine if and how Rochesterians wish to see these weapons used against civilians.
  - j. Clearly restricting use of less-than-lethal weapons that are not banned, in order to prevent disproportionate use of force, including a ban on shooting civilians in the face, neck, or spine with a bean bag round or other projectile unless deadly force is justified.
  - k. Provide training to officers on these policy changes, the use of less than lethal weapons, and alternatives.
- 10.** The RPD does not have Facial Recognition Technology or the ability to conduct biometric search and has no intent to acquire these technologies. If, these technologies were ever pursued, the City will engage the community in that decision-making process.
- 11.** Maintain the mindset of a “Servant/Protector” verses a “Warrior”attitude at all times in crowd control situations. The focus should be on the safety and protection of people first, property second, whenever possible. Inevitably, some situations will involve confrontations with the public. Police should be skilled with de-escalation techniques to reduce the risks to all involved. Lower-level management techniques such as slowly moving crowds, giving directions over loudspeaker, limiting hostility, respecting First Amendment rights, should be priorities over more intensive techniques such as pepper balls, rubber bullets, flash bangs and tear gas, which should be deployed as a last resort under clear guidelines for use of force.
- 12.** Institute policy that officers shall not handcuff juveniles aged 12 and under unless the juvenile presents an imminent danger to themselves or others.
- 13.** Research and develop a coordinated expanded pre-arrest diversion program that has empirical support of its success. Adapt a similar diversion approach for youthful offenders that is similar to the adult program with additional focus on strengthening family relations. Explore additional opportunities for diversion opportunities by establishing partnerships with the Monroe County District Attorney’s office and the Monroe County court system for program development.
- 14.** Improve the RPD Body-worn Cameras program.
- a. Add a list of examples of the types of law enforcement activities that officers are expected to record under the existing BWC policy. The BWC Manual’s standard recording policy



- requires officers assigned a BWC to “record all activities, and contact with persons, in the course of performing police duties.” This includes recording, “all calls for service and self-initiated police activity.” However, the Manual does not further enumerate examples of the types of law enforcement activities that officers are expected to record under this policy.
- b. Expand the mandatory recording activities to explicitly require BWC use for (1) the execution of search and arrest warrants, and during (2) protest, crowd control, and demonstration-related operations.
  - c. Develop clear rules and training regarding the application of BWC usage for search warrant execution involving undercover operations and for SWAT teams operations. The RPD does not currently require BWC recordings for those operations for the protection of officers and law enforcement methods so policy clarification and further discussions with RPD are needed.
  - d. Update the BWC Manual to require officers to provide and record either a verbal or written justification to their supervisors when there is a (1) failure to activate the BWC to capture a mandatory or standard recording activity or (2) a premature deactivation of a BWC prior to the conclusion of a mandatory or standard recording event.
  - e. Add specific procedures in the BWC Manual that describe how an officer may be disciplined for failing to comply with the BWC policies. RPD’s BWC Manual does not currently address the repercussions for officers who fail to use their BWCs in accordance with Department policy.
  - f. Amend/Update the RPD BWC policy to:
    - Provide a clear definition for the “safe and practical” exception to BWC recording requirements.
    - Consider eliminating the practice of officers previewing the BWC footage before writing reports because it is time consuming and creates bias.
    - Require officers to notify the public truthfully and effectively if they are being recorded.
  - g. Institute a zero tolerance policy for officers who fail to turn on their body worn cameras when it is safe and practical; that policy should be accompanied by strict penalties, which may include dismissal.
  - h. Update Departmental policies regarding the release of complete BWC footage, in compliance with Freedom of Information Law.
  - i. Update Departmental policies regarding storage of body worn camera footage and public release of that footage.
  - j. Supervisory review of BWC footage will be required to audit and track use of BWC.
15. Continue to work with the Rochester City School District on not having police presence in educational settings and preparing a safety plan.
  16. Update the RPD language access and interpretation plan. The City shall make its public safety system accessible and responsive to all Rochesterians, regardless of the languages they speak, and develop a full and robust language access plan and interpretation services in all contexts regarding emergency services, critical information provision, and law enforcement.
  17. Consider creating a reward/recognition system for consistent and creative use of de-escalation strategies in the field by RPD Officers.
  18. Review RPD General Orders for modifications necessary to take into consideration service to children and people with special needs.



19. Modify RPD General Order 502/507 to explicitly state that regulations around field stops include people who are walking or riding a bicycle in the right-of-way.
20. Enforce policies and practices that require an officer to provide clear indication whenever a person is being placed under arrest.
21. Expand the mandatory recording requirement in the RPD BWC Manual. BWCs should be active at all times during officers' responses to a service call or when in contact with members of the public.
22. Update the RPD BWC policies with clear, simple, and objective penalties for failing to comply with BWC procedures prescribed by the BWC Manual and General Orders.
23. Consider using Cultural Monitors for the purpose of oversight and reporting upon the RPD's efforts to achieve, maintain, and sustain constitutional and culturally-sensitive policing.

## G. Resizing the RPD

1. Aim to reduce RPD personnel within the next 5-10 years so it can reallocate these resources to other programs.
2. Identify tasks handled by uniformed officers that could be handled by civilian individuals.
3. Consider reinstating and rehiring a Commissioner of Public Safety who has a final say on both budget and management.
4. Commit to providing the financial and institutional support for a process to achieve long-term change to Rochester's policing/public safety budget.
  - a. Bring all parts of our community to the table to examine and change our fundamental blueprint of policing and public safety.
  - b. Through a broad partnership with the community, educate and engage Rochesterians on how the RPD is funded. That partnership shall develop budget recommendations that captures Rochesterians' public safety priorities, then review the proposed budget and make suggestions. Regardless of what form this partnership takes, it must educate Rochesterians about how different tools, from police to social services, can change public safety in our community. It may need to be led by a coalition of organizations, inside or outside of government, that are trusted by the community. It should canvass Black and Brown people, people facing homelessness and poverty, and marginalized communities. The City will explore opportunities for a people's budgeting process.
  - c. Support the PAB in its necessary work, as outlined by the City Charter.

## H. Response to Mental Health Calls

1. Significantly increase the number of officers with Crisis Intervention Team (CIT) training such that a sufficient number of CIT-trained officers are available on each shift. The RPD CIT program is an important tool for ensuring that RPD officers have the requisite skills to respond appropriately to a mental health crisis. This intensive training program has been completed by approximately 125 active-duty RPD officers. The program currently accepts officers on a voluntary basis. At this time, it is not recommended that RPD mandate CIT training for all officers, as at least some research suggests that mandatory, across-the-board CIT training lowers the effectiveness of the program overall. This may also require the RPD to examine how officers switch shifts to ensure that there are CIT-trained officers available 24 hours.



2. Expand the scope of mental health awareness training and include explicit training on the availability of other mental health response programs and appropriate coordination, including mobile crisis intervention available nights and weekends.
3. Evaluate the Person in Crisis Team, or “PIC Team” Pilot Program that the City kicked off in January 2021 as a 6-month pilot program. At the end of the six months, the City will evaluate the effectiveness of the program using the following metrics:
  - **% of Calls Transitioned** - Reduce the number of behavioral health and lower acuity calls traditionally responded to by law enforcement or EMS.
  - **Impact on ED/hospital utilization** - Reduce the number of individuals transported to the emergency department that could be instead addressed in a non-hospital setting.
  - **Outcomes for individuals** - Along with documenting meaningful connections to services, i.e. enrollment in ongoing case management, establish and track other key performance indicators regarding the reduction in the number of non-warrant arrests that result during a 911 response.
  - **Cost-Benefit Analysis** - Monitor and analyze comparing the investment into the PIC Team and related Crisis Intervention Services Office programming with the costs of sending law enforcement or EMS for the same interventions.
4. Increase funding for first responder systems that appropriately replace or supplement police with social workers, mental health providers, and other non-police personnel.
  - a. Upon review of the metrics of the Office of Crisis Intervention Services pilot, evaluate the budget implications and provide funding where necessary.
  - b. Work with advocates and the court system to develop a program to improve evictions and the removal of tenants as part of the work being done in the City’s Department of Neighborhood and Business Development.

## I. RPD Recruitment

1. Overhaul the Civil Service hiring system. The City of Rochester is requesting a complete overhaul of the NYS Civil Service hiring and promotion system. It is evident and research shows that this practice has been and continues to be biased toward communities of color. In fact, the deciding factor of if someone would be a good officer or manager should not be based on how well someone scores on a written Civil Service exam. The state should immediately convene a Civil Service Commission to review and change the process for governmental hiring and promotions.
2. Create Civilian Public Safety Interview Panels to assess candidates for the Rochester Police Department. The purpose would be to bridge the gap of hostility and suspicion by giving the citizens the power to interview and assess candidates for the Police Department and make a recommendation to the Chief of Police before they are accepted into that process, and before the agencies make that commitment and investment in them. The purpose of the interviews will be to assess an applicant’s attitudes, experience, cultural fit and implicit biases, to determine whether the applicant is fit to serve as a Police Officer with ethics, integrity and anti-racist attitudes and behaviors.
3. Petition Judge Geraci’s court to alter the language in the federal consent decree requiring the RPD to accurately reflect the various racial demographic populations of Rochester, and to maintain this status through aggressive hiring of non-white personnel. The 1975 federal consent decree significantly contributes to the racial imbalance within the Rochester Police Department’s ranks. The



purpose of the decree, as written, was to “increase the minority representation” within the Rochester Police Department to 25%. This was reflective of the population of Rochester when it was written, however the non-white population of Rochester currently stands at over 50%.

4. Increase the recruitment for the Career Pathways to Public Safety program offered by the Rochester City School District, and the PREP program offered by Monroe Community College to firmly establish a direct pipeline for the youth of Rochester to enter the ranks of the Rochester Police Department.
5. In compliance with relevant laws, share information with the community about the backgrounds of recruits and new hires, including information on whether officers are recruited or hired from the military and information on whether new hires have disciplinary histories from law enforcement agencies in which they previously served.
6. Require city residency for newly-hired police officers.

## J. Training

1. Improve leadership training to cultivate community-supportive leaders in the RPD ranks.
  - a. Institute the Stratified Leadership Model to prepare leaders to create new competencies as they move up the ranks. Stratified Leadership is needed as leaders move up through the hierarchy. The complexities of the next level require a different set of competencies and capabilities to function effectively with respect to community policing. Using this leadership model, leaders know what decisions should be made and at what level they should be made.
  - b. Foster community-oriented policing leadership and its culture by adopting the following concepts:
    - The promotional processes identify and select leaders that grasp the concepts of community-oriented policing.
    - The leaders regularly have informal and formal conversations about how they can embrace community-oriented policing.
    - Outside influences, such as the community, influence city leaders to ensure police leaders adopt community-oriented policing.
    - Police leaders recognize the importance of community-oriented policing and put in place measures that permeate the agency's philosophy.
    - City elected leadership direct the police department to put in place plans to ensure there is community-oriented policing.
    - Performance standards (ratings) are structured to drive the acceptance of community-oriented policing.
  - c. Learn from other industries and police organizations to stimulate organizational growth. Leadership training allows for leaders to broaden their global view. While working with partnering agencies, common bonds help to allow for a unified response to emergencies and ways to impart strategies to better work with the community.
2. Use empirical data to support the selection of new training programs.
3. Select and implement a strong curriculum for responding thoroughly and effectively to the need for racial justice education of police recruits at the Police Academy level and in-service education for Officers.
4. Invest in available cultural diversity training to include implicit and explicit bias training, procedural justice training, systemic racism, cultural competency, and Rochester history training that includes



cultural diversity, redlining and neighborhood development instruction during a recruit's post academy as well as in-service for all staff.

5. Advocate for a change in NYS law to require DCJS to mandate explicit and implicit biases, systemic racism, cultural competency, and procedural justice training in the Basic Course for their Police Officer certification program. Mandate that this training be continued through required routine in-service courses. Advocate for funding for this additional mandated training.
6. Reinforce Police Officers as "Servant/Protectors" as opposed to "Warriors" through training. In comparing the documented and required police recruit training in de-escalation techniques to the greater amount of time spent on firearms, baton, and OC spray training, it appears that there is an imbalance that could further the perception of the concept of Police Officers as "Warriors" as opposed to "Servant/Protectors." While most agencies provide de-escalation training, there are key success factors that are often not incorporated into the training process. These include:
  - Making de-escalation a core theme of an agency's training program.
  - The responsibility for an officer to intervene to prevent other officers from using excessive force.
  - In-field training, video scenario reviews, and discussions focused on Use of Force and de-escalation policies and procedures provided by skilled certified instructors.
  - An audit process with data that is transparent and provided on a routine basis.
  - Annual refresher training for all officers.
  - Hours in de-escalation training at least as long as firearms, weapons, and defensive training combined.

This training will require certified trainers trained by a nationally recognized de-escalation specialist. It is recommended that officers at the academy receive eighty plus hours of de-escalation training and every officer should be required to take at least one two-hour yearly training course in de-escalation tactics.

7. Focus training on humanity and the sanctity of life. Focusing on "Sanctity of life" as a guiding principle is an example of a values-based approach to Use of Force which includes the following points:
  - Respect human rights.
  - Officers should not engage in unreasonable actions that precipitate the use of force as result of tactical, strategic, and procedural errors.
  - Individuals are entitled to Constitutional Rights free from excessive force.
  - It recognizes that split-seconds judgements are made.
  - Reasonableness inquiry in excessive force situations is objective. When reasonable, officers should use advisements, warnings, verbal persuasion and other tactics including withdrawing.
  - It is important for officers to bear in mind that many reasons exist that individuals may resist arrest:
    - The person may not be capable of understanding the gravity of the situation.
    - An individual's reasoning ability may be dramatically affected by several factors, i.e. medical condition, mental impairment, developmental disability, language barrier, drug interdiction and emotional crisis.



8. Utilize training programs that have proven successes, such as Integrating Communications, Assessment, and Tactics: A Training Guide for Defusing Critical Incidents, published by the Police Executive Research Forum in 2016.
9. Integrate training topics into each officer's annual performance review process. Recognize individual officer's very good performance and discipline individual officer's performance below the acceptable level.
10. Prioritize spending hours training on use of force and de-escalation in such settings, which are generally the most effective for adult learning, as opposed to purely classroom learning.
11. Explore working with the Active Bystandership for Law Enforcement ("ABLE") Project, which has created trainings designed to train officers on how to intervene to prevent harm and to create a law enforcement culture that supports such peer intervention.
12. Provide training on the proper use of pretextual stop. Ensure that it is not applied in an inequitable manner.
13. Take advantage of available outside funding for De-escalation Training.
  - a. Seek a grant from the U.S. Department of Justice, which announced recently that it has put \$3 million toward the creation of a national center that will provide training and assistance to help law enforcement agencies prevent the use of excessive force. The grant would provide additional support for training officers, and assist with reviewing current policing policies, as well as providing for the mental health of officers.
  - b. Pursue a Byrne Memorial Justice Assistance Grant – JAG. The JAG program is the leading source of federal justice funding to state and local jurisdictions. The JAG Program provides states, tribes, and local governments with critical funding necessary to support a range of program areas including law enforcement.
  - c. Apply to the NYS Division of Criminal Justice Services.
14. Explore a possible pilot program for providing mindfulness-based de-escalation, anti-racism, wellness, and resiliency training. There is a growing focus on what is commonly referred to as Mindful Policing in recent years. Studies show the following benefits, and they show that continued practice is needed to sustain these benefits.
  - Significant increases in resilience, mental health and emotional intelligence;
  - Significant decreases in sleep disturbances, anger, fatigue, burnout and general stress;
  - Reduction in the levels of the stress hormone cortisol;
  - Officers reported less difficulty with emotional regulation, organizational and operational stress.
15. Provide additional training to 911 dispatchers to get better information and assess the response needed for mental health calls.
16. Provide training in the RPD academy as well as RPD officers on the handling of children and adults/children with special needs.

## Conclusion

The systemic issues that plague the Rochester community, like other communities, took decades to create. They are complex and deep rooted. It will take time and focus to change the system while balancing the need for public safety and the professional and equitable application of policing. Upon submission of this plan, the immediate next steps are:



- The RPD Chief will form a committee to turn the above recommendations into an action plan with priorities, timelines, and measures by summer 2021;
- WilmerHale will complete their report related to use of force, de-escalation, use of body worn cameras, and responding to mental health calls; and
- RPD will release a community policing plan, by fall 2021.

If significant progress in RPD behavior is not accomplished within one year of the release of the Chief's action plan, the Mayor will petition the state to allow a complete restructuring of the Police Department, similar to the actions taken in Camden NJ for restructuring their police department.<sup>18</sup>

City Hall and the RPD are committed to working with the community and the PAB to make the changes necessary to address the issues so each and every member of the Rochester community feels safe, protected, and valued.

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<sup>18</sup> <https://www.mcall.com/news/pennsylvania/mc-nws-pa-camden-police-defund-rebuild-20200611-5vhnvoo64vezviu2eiup5aswoi-story.html>