



# CITY OF NEW ROCHELLE NEW YORK

## NEW YORK STATE POLICE REFORM AND COLLABORATIVE PLAN

MARCH 2021

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# INTRODUCTION

## **Police and Community Together**

The following action plan is intended to enhance the quality, transparency, and fairness of law enforcement practices in New Rochelle, while also providing our Police Department with the support and tools necessary to discharge its vital mission. These wide-ranging measures, in their totality, constitute the most significant reform of Policing procedures and policies in New Rochelle's modern history.

Our action plan is the product of many months of dialogue and study, guided principally by a citizens' Policing Review Committee, building on a prior examination in 2015, and informed by extensive public comment, as well as professional feedback from New Rochelle's Police and Administrative leadership. We are grateful to all who participated in this process, particularly the volunteers who donated considerable time, energy, passion, and thought.

The City Council would judge these measures to be meritorious under any circumstances. This exercise, however, does not occur in a vacuum, but rather in the context of a nation-wide reckoning with the historical and present-day impacts of racial bias and structural racism across multiple institutions, with a specific focus on racial disparities within law enforcement and the criminal justice system. The existence of such disparities is beyond reasonable dispute, confirmed by countless personal testimonials and a raft of statistical evidence.

Although most New Rochelleans express genuine pride in our community's diversity and profess a strong allegiance to racial equality, we are by no means immune to these broader conditions, and must confront the hard reality of racial biases and disparities within our city. When it comes to law enforcement, there is every indication that people of color in New Rochelle are much more likely than white residents to be the subject of Police interventions, more likely to interact with the criminal justice system, and more likely to experience these contacts in negative terms.

Furthermore, while the use of deadly force by the New Rochelle Police is thankfully rare, we cannot ignore that this plan is issued in the immediate aftermath of the death of a young Black man in a Police-involved shooting. The sharply disparate reactions to and perceptions of this event and other events, often breaking along racial lines, illustrate the existence of a trust gap surrounding law enforcement that must be confronted, separate and apart from the facts of any specific case.

This is not to impugn the performance or motivation of New Rochelle's Police officers. Even the most critical evaluation of institutional racism must distinguish carefully between the racial impacts of *systems* and the racial attitudes of the *individuals* operating within these systems. Indeed, we are proud of our Police Department, confident that the great majority of its members are personally and professionally committed to equal justice under law, mindful that through the review process our Police Department has received many compliments, and grateful for the steps the NRPD has taken over many years to strengthen Police-community relations and train its officers to deescalate conflict.

Similarly, it would be wrong to view these recommendations as punitive in their treatment of the NRPD. Quite the opposite; we propose to assign additional resources to our Police Department. More fundamentally, it is our strong belief that Police officers themselves benefit from an organizational culture rooted in guardianship, collaboration, and accountability, and that the job of Policing in New Rochelle will be safer and more rewarding when officers are accorded the full and universal respect and honor that their essential duties merit.

While this plan by definition concentrates on reform of Police practices, our judgements and expectations of Policing must be tempered by context. There is ample evidence that, *across many spheres*, a generational pattern of structural racism continues to have profound impacts on the modern composition of our country and community, with everything from housing patterns, to public health outcomes, to household wealth, to educational attainment illustrating stark and upsetting racial disparities. In this sense, the challenges that manifest in Police-community interactions may often be the product rather than the cause of larger societal inequities. Police reform alone cannot address all such challenges and an exclusive focus on Policing as a cure-all places impossible pressures on law enforcement professionals, while wrongly implying that Police officers are to blame for circumstances they confront, but do not necessarily create. However, because the Police are the only local government entity empowered to use deadly force, the consequences and implications of bias in law enforcement- whether implicit or explicit, whether originating within the criminal justice system or rooted in deeper causes- are more grave than in other fields, and it is sensible to sequence our attention accordingly.

The completion of this plan concludes *one phase* in a process of introspection, discussion, reconciliation, and improvement, but the process as a whole must continue, even after all of these recommended measures have been fully implemented. Beyond providing a roadmap for immediate, practical steps, it is our hope and intent that these recommendations will establish a space and framework for ongoing, honest dialogue and enhanced collaboration between our Police Department and the people it serves.

To acknowledge the reality of racial bias is not to accept its permanence. Instead, honesty is a precondition to progress. New Rochelle's ideals are powerful and uplifting, but the lived experience of too many residents has fallen short of these ideals. Let us commit ourselves together to ensuring that every member of our community, regardless of race, ethnicity, or national origin, is valued, afforded the full and equal protection of the law, and given sound basis to trust in the fairness of those sworn to serve the common good.

## BACKGROUND

On June 9, 2020 the City Council requested a comprehensive review of past and current NRPD practices and an analysis of future efforts to improve community engagement with the police department. On June 12, 2020 New York Governor Andrew issued Executive Order Number 203 entitled the “New York State Police Reform and Prevention Collaborative”. A copy of that Executive Order is included in this document. The Plan requires “Each government entity in the State of New York which has a police agency to 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.”

Further, the Executive Order requires “Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan.” The City of New Rochelle operates under a “Council/Manager” form of government which is a collaborative form. This is somewhat different from a “Strong Mayor” form of government where there is a clear separation between the executive and legislative branches of the government. In the case of the Council/Manager form of government, the City Manager and Administration consult on a regular basis with the Mayor (who is a Member of the City Council) and the City Council. As a result, the formation of the City’s Policing Review Committee, the review of the Committee’s recommendations and the development of this Plan was a collaborative effort between the City Manager, Senior Staff and the Mayor and City Council.

In response to the Governor’s Executive Order, New Rochelle City Manager Charles B. Strome, III, in consultation with the City Council, undertook a process in New Rochelle to comply with the Executive Order. The City underwent a process to select the Policing Review Committee which included a City-wide request for resident stakeholders to apply to serve on the Committee. After receiving and reviewing some 150 applications, on August 13, 2020 City Manager Strome appointed the following members to the Policing Review Committee: Lisa Burton, Alvin Clayton, Kwamain Dixon, Natasha Fapohunda, Robin Frankel, Nat Harris, Carmelo Hernandez, William Ianuzzi, Jason Labate, Wynter Parham, Wendell Sears, Emma Silva, Jabari Skeene and Steven Sonet. Additionally, the City Manager, Police Commissioner Joseph Schaller, Deputy Police Commissioner Robert Gazzola and Chief of Staff/Corporation Counsel Kathleen Gill were designated as non-voting participants. Mayor Noam Bramson participated in the Committee process and Council Member Yadira Ramos-Herbert represented the City Council and acted as a non-voting facilitator of the Committee.

Once the Committee was formed, they met six (6) times and hosted five (5) community input meetings between August and October, 2020. Additionally, a dedicated webpage [www.newrochelleny.com/policing](http://www.newrochelleny.com/policing) was established on the City website with information and updates.

The Committee was charged to examine the following topics:

- Use of force policy and training

- Data disclosure and transparency
- Community engagement
- Oversight/Discipline/Complaint Process
- Equipment
- Other Issues

The primary goal of the Committee was to review the above topics and make recommendations to the City Manager. The Committee recommendations and Staff responses were submitted to the City Council on November 4, 2020 and November 10, 2020 respectively.

The Policing Review Committee presented their [initial report](#) to the City Council at a special meeting held on Tuesday, November 24th at 5 pm. After the Committee's presentation, the creation of the plan remained an active part of the City Council's agenda and was listed in the agenda for the following meetings:

- December 1, 2020 - Committee of the Whole meeting. During Citizens to be Heard community members provided feedback and reactions to the Committee's recommendations and the City Staff's response)
- December 8, 2020 - Regular Legislative Meeting where City Council discussed reaction to a structure proposed by Mayor and Council Member Ramos-Herbert to help guide the City Manager's work in creating a plan reflecting input from the Committee, community, Council and appropriate staff.
- January 12, 2021 - Committee of the Whole meeting which included a review and discussion by Council and Staff of the first draft of the plan to be submitted to the State. During Citizens to be Heard community members provided feedback and reactions to the draft of the proposed plan.
- January 19, 2021 - Regular Legislative meeting where Council and Staff addressed edits made to the proposed plan in response to Council discussion and feedback provided from the public during the January 12, 2021 meeting. The public hearing for the proposed plan was also noticed for February 9, 2021).
- February 9, 2021 - Committee of the Whole and public hearing for the plan. Over 100 community members signed up to provide feedback to the proposed plan to be submitted to the State. The City also permitted written comment via email and via an online portal.
- February 16, 2021 - Regular Legislative meeting where the Council and Staff will discuss edits and changes based on community feedback.

Additional information highlighting the collaborative process can be found on the City's website: [www.newrochelleny.com/policing](http://www.newrochelleny.com/policing) .

# NEW YORK STATE POLICE REFORM AND COLLABORATIVE PLAN

The following items shall be implemented in the Immediate or Short term.

## COMPONENT 1 ESTABLISHMENT OF COMMUNITY-POLICE PARTNERSHIP BOARD

The City Council and Administration recognize the critical importance of a community-Police relationship characterized by trust, understanding, and accountability. We seek to elevate the community's role in shaping Police policy and evaluating Police conduct. There are various models for accomplishing these goals, and we judge a collaborative structure to be most likely to achieve constructive outcomes in New Rochelle.

### MISSION AND RESONSIBILITIES

The Community-Police Partnership Board (CPPB) shall have the following responsibilities, to be discharged in concert with the New Rochelle Police Department leadership and relevant personnel, and in a spirit of active engagement and collaboration:

- Review and recommend improvements to NRPD training protocols and all policies governing interactions with community members, including use-of-force policies, with an emphasis on “advancing procedural justice practices, emotional intelligence, [and] community-oriented policing,” as well as conflict de-escalation and implicit bias prevention. Such reviews should occur as often as deemed necessary by a majority of the Board and no less than annually.
- Examine the circumstances surrounding “serious incidents” (as defined below) that entail grave injury or death and/or an officer’s discharge of a firearm and “that have the potential to damage community trust or confidence in the agency.” Determine whether the events so reviewed hold systemic lessons that argue for changes in policy or training protocols. Issue any such recommendations to the Police Commissioner, City Manager and/or City Council. At the Police Commissioner’s request, advise on disciplinary matters.
- Hold regular meetings with community leaders and interested residents to review data, discuss concerns, receive community comment, and maintain ongoing, trust-building dialogue. Examine aggregated data regarding police-community interactions and complaints to identify systemic concerns. At the request of either co-chair, examine the circumstances surrounding specific complaints or events.
- **To enhance trust between the community and the NRPD, and to facilitate the independent review of citizen complaints, the CPPB is charged to research and recommend a framework for the creation of a Civilian Complaint Review Board (CCRB).**

To support and advise this process, the City will retain an expert consultant, if requested by the CPPB. The CPPB is asked to present its findings and recommendations to the City Manager and City Council as timely as practical and no later than one year following appointment of the CPPB, so that a CCRB can be established in 2022.

**MEMBERSHIP: 13 Total**

- **NRPD- 4 Members**

Appointing Authority: Police Commissioner, with the approval of the City Manager.

Term: Serve at the pleasure of the Police Commissioner.

Composition: Must, at a minimum, include Commissioner or Deputy Commissioner, Training Officer

Note: The Commissioner may designate additional members of the Department, as needed, to participate in CPPB meetings for the purpose of providing information or answering questions.

- **SENIOR CITY MANAGEMENT- 1 Member**

Appointing Authority: City Manager

Term: To serve at the pleasure of the City Manager

Composition: The City Manager or his or her designee shall be a permanent Member of the CPPB.

- **CITY COUNCIL- 1 Member**

Appointing Authority: City Council selects from among its membership by a majority vote.

Term: Council Term

- **GENERAL COMMUNITY- 7 Members**

Appointing Authority: Nominated as a slate by the Mayor, drawn from applications received through a public application process, and confirmed by a majority vote of the City Council.

Term: Four-year term, commencing and concluding six months after the commencement of the City council term, except that the term for the initial appointees to the CPPB shall commence no later than June 15, 2021 and conclude on June 30, 2024.

Composition: Residents of New Rochelle judged to have experiences, skills, leadership roles, and perspectives that add meaningful value to the work of the CPPB and who help ensure that the overall composition of the CPPB is reflective of New Rochelle's diversity. A majority of General Community members must be drawn from, neighborhoods or demographic groups with higher than average frequency of Police interaction.

Note: In evaluating potential members, the Mayor and City Council should consider drawing upon the leadership of established community organizations and committees.

#### **LEADERSHIP: 2 Co-Chairs**

**NRPD Co-Chair:** Appointed by the City Manager, drawn from among the NRPD members of the CPPB.

**Community Co-Chair:** Nominated by the Mayor and confirmed by a majority vote of the City Council, drawn from the General Community members of the CPPB.

#### **MEETING SCHEDULE**

The CPPB shall meet as often as deemed necessary by a majority of its membership, but no less than quarterly, in sessions open to the general public. Meeting locations and times should vary to maximize public opportunities for observation, and when appropriate, participation.

At least one meeting annually should be devoted to review and discussion of training and use-of-force policies.

Note: The CPPB may schedule such additional meetings as a majority of its membership deems appropriate to discharge its mission, including emergency meetings, when necessary, to review serious incidents.

#### **SERIOUS INCIDENTS**

In addition to the regular meetings outlined above, the CPPB will also be convened when there is a serious incident defined as follows:

1. The discharge of a firearm by a New Rochelle Police Officer or other New Rochelle official conducting an enforcement activity..
2. Any incident in which a New Rochelle Police Officer or other New Rochelle official conducting an enforcement activity sustains grave injury or death at the hands of another, to include “friendly fire” situations.
3. Any incident involving the use of force by a New Rochelle Police Officer or other New Rochelle official conducting an enforcement activity against another person resulting in grave injury or death.
4. The death or serious injury of a person while in-custody of a New Rochelle Police Officer or other New Rochelle official conducting an enforcement activity. In-custody is defined as: a situation where there has been a formal arrest or when, under the totality of the circumstances, there has been a restraint of freedom of movement of the degree associated with formal arrests.

In the event of a disagreement about specific incidents, either co-chair may introduce an incident for review by the CPPB. In reviewing such incidents, the CPPB shall be provided with any relevant documentation or records, excepting any items required by State or Federal law to be withheld.

## **TRAINING FOR THE CPPB**

No later than one year following appointment, all General Community members who have not already done so shall be required to participate in the Citizen's Police Academy, and all members who have not already done so shall be required to participate in anti-racism training. The selection of specific anti-racism programming, trainers, and training parameters shall be made by the co-chairs of the CPPB, subject to the City's procurement policies and available funding. In the event of a disagreement among the co-chairs, the judgment of a majority of the CPPB shall govern. In addition, CPPB members shall be required to receive any further training and/or orientation judged by the co-chairs to be necessary for the discharge of their duties.

The public application process for the CPPB shall commence no later than May 1, 2021 and the CPPB shall be appointed no later than June 15, 2021.

The following recommendations, emerging from the Policing Review Committee and from community comment, shall be referred to the CPPB immediately upon its establishment:

1. The Policing Review Committee recommends NRPD participate in rigorous and robust training that focuses on advancing procedural justice practices, emotional intelligence, community-oriented policing, and specifically addresses the role of race in officer's perceptions of risk and their decision making in potentially dangerous interactions with citizens.
2. The Policing Review Committee recommends collaboration between NRPD and community members to "co-produce" and update policies and training programs in a manner that reflects clear roles and responsibilities to achieve community-centered safety goals, violence reduction and address key problem areas. Special consideration should be paid to Use of Force and De-escalation policies to reflect norming best practices, including the ban of intentional neck and chokeholds.
3. The Advisory Committee on Immigrant Affairs (ACIA) recommends that Police officers be sensitized to and provided tools for overcoming the potential fear of law enforcement authorities among new immigrants, particularly those who may have fled violent circumstances or repressive regimes. In addition, the ACIA recommends that Police officers affirmatively foster constructive and sensitive dialogue with immigrant communities concerning cultural differences that may impact understanding and enforcement of local laws.

## **COMPONENT 2 UNDERTAKE IMPLICIT BIAS TRAINING**

Although the CPPB will review training protocols, the Police Department will continue to provide implicit bias training into its regular annual training program.

**Note:** It should be noted that the Police Department has trained its members in implicit bias for years. It had scheduled Implicit Bias Training in 2020 but it was delayed due to the COVID Pandemic. The Department intends to initiate that training program as soon as it becomes safe to do so.

### **COMPONENT 3 ESTABLISHMENT OF A COMPLETE BODY CAMERA AND DASHBOARD CAMERA PROGRAM**

The Policing Review Committee recommended body cameras for all Patrol officers and Patrol supervisors operating in the field as well as in-car cameras for all marked and unmarked patrol vehicles. Additionally, the committee recommended that the footage from these cameras be stored and retained in a way that is easily accessible to third parties such as the New York State Attorney General's Office and requests from the public in accordance with Freedom of Information and other applicable laws.

In response to this recommendation, the City Council directs the City Manager and the Police Department to implement such a camera program during calendar year 2021. (It should be noted that funding to initiate the program was included in the City of New Rochelle's 2021 Adopted Budget). By September 1, 2021, the City Manager and NRPD shall provide City Council with an update on the implementation of this program, including a description of how data will be retained, how officers will be trained in camera use, and how proper and consistent compliance with camera operation will be ensured.

### **COMPONENT 4 CREATION OF AN INSPECTOR GENERAL POSITION WITHIN THE CITY GOVERNMENT**

The Policing Review Committee recommended the creation of the Office of an Inspector General, which is not part of the NRPD but is an office within City Hall to support and facilitate the investigation and resolution of complaints or allegations of misconduct, abuse of power, corruption, or fraud. This position was funded in the City of New Rochelle's Adopted 2021 Budget and the position was filled in the first quarter of 2021, now operating under the supervision of the Law Department.

### **COMPONENT 5 ESTABLISHMENT OF POSITION IN THE POLICE DEPARTMENT TO UPDATE ITS WEBSITE AND DEVELOP A PROGRAM TO PROVIDE RELEVANT INFORMATION TO THE PUBLIC**

The Policing Review Committee recommended that the NRPD update its website and allow public access to monthly reports that detail racial, ethnic, gender and location data related to all police stops, crime data, complaint data, vehicle and traffic law and daily activity logs. The Committee recommends the hiring of a data entry clerk who will aggregate the information in a manner that allows monthly digital access. The Committee recommends a comprehensive data management overhaul be undertaken to analyze the following but not limited to collection, maintenance, analyzing and disclosure practices.

It should be noted that the City of New Rochelle's Adopted 2021 budget includes funding for such a position. By June 1, 2021 the NRPD will present a plan to the City Council that is responsive to the committee's recommendation but also adheres to legal limitations that may curtail the NRPD's ability to provide some of the information requested.

Aggregated data should be displayed in a transparent, easily digestible format that facilitates comprehension and that includes graphics, charts, and maps as relevant. The City Administration and NRPD should be prepared to adjust data sorting and display methodology in response to public input.

## **COMPONENT 6 DEVELOPMENT OF AN ONLINE SYSTEM FOR FILING COMPLAINTS**

The Policing Review Committee recommended that all complaints concerning a Member of the NRPD should be capable of being filed through an on-line form; tracked to a final disposition with a detailed explanation of the ultimate result; and available to the public with legal necessary redaction. All identifying information of complainants or any witness to the alleged offense should be held confidential and restricted to only those with the need to investigate, resolve or adjudicate such complaints and subject to a strictly enforced retaliation policy which confirms that any retaliation against any complainant will result in disciplinary action and possible termination by the offending officer. The retaliation policy should be clearly stated on the complaint form.

It should be noted that the NRPD is currently engaged in the process of creating an online complaint form. It is recognized that certain aspects of this committee recommendation are contingent upon definitive resolution of State-level regulations governing disciplinary records, the City Manager and the NRPD will complete development of this on-line complaint portal by May 1, 2021 and provide City Council an analysis on how transparency can be achieved for both complainants and the general public, consistent with State guidelines by September 1, 2021.

The Police Department will establish a retaliation policy in 2021. Such policy will be included on all complaint forms.

## **COMPONENT 7 CONSIDER JOINING PROPOSED COUNTY PROGRAMS**

The Policing Review Committee recommended that the City Council join any County level shared services model for both Crisis Responders and the establishment of a Countywide Civilian Complaint Review Board. Should the County implement one or both of these

programs, the City Council directs the City Manager and Police Department to review the program and recommend to City Council whether or not the City should participate in such programs. Both programs are considered positive in concept but the City should commit to participation only after reviewing details of the programs.

## **COMPONENT 8 WORK WITH INTERESTED COMMUNITY GROUPS TO ESTABLISH A RESIDENTS SECURITY OFFICER PROGRAM**

The Policing Review Committee recommended the reinstatement of the Residents Security Officers (“RSO) Program who are residents from the community to serve as liaisons with NRPD and help reduce crime. Strengthening resident-police partnerships is of urgent importance and must be pursued vigorously, so that residents can be more fully engaged in providing for safe neighborhoods. The previous RSO Program was a program created and operated by the New Rochelle Municipal Housing Authority and funded by the Federal government through various programs to provide RSO’s at the former Hartley Houses (now Heritage Homes) and Bracey Apartment complex. The Heritage House Development is no longer a Public Housing Project and is now private property. The Bracey House Apartments remain a Housing Authority Property but the Housing Authority is moving forward on a proposed project which would convert them to a project similar to the current Heritage Homes Project, thus also becoming private property. As a result, it is not legally possible for the City to fund a program like this that would operate on private property. However, the City supports establishment of such programs if they are supported by the residents of the Housing complexes and City staff should work with residents to seek other funding sources in 2021 to allow the program to be established.

## **COMPONENT 9 ENHANCE EQUITABLE ACCESS TO PUBLIC SAFETY INFORMATION AND SERVICES FOR SPANISH SPEAKERS AND IMMIGRANTS**

The Policing Review Committee recommended all information shared on the NRPD website be provided in English and Spanish. This recommendation has obvious merit in a community with a substantial Spanish-speaking population. The Department’s website currently translates into 109 languages; however, attachments and linked documents have not typically been translated. As a result of this recommendation, all attachments will be translated into Spanish. The City Manager is directed to work with relevant City staff to provide City Council with a clear description of the steps necessary to implement this recommendation, including any necessary budget allocation and/or assignment of personnel. This report should be provided to City Council as soon as possible but no later than May 1, 2021.

The City and NRPD reaffirm prior public statements that the enforcement of immigration laws is neither the mission nor priority of local Police, and that trust-based relationships between the Police and immigrant communities are essential to the successful investigation of crimes and provision of public safety. This message should be consistently emphasized to officers by the NRPD leadership and, in turn, by officers to immigrant communities.

## COMPONENT 10 ADDITIONAL ITEMS TO BE STUDIED FURTHER DURING 2021

The Policing Review Committee made several other recommendations that should be studied further during calendar year 2021. These recommendations include:

- Communication modalities have changed and social media is the key way to share information. The Committee recommends the hiring a staff member who is trained to permit a more robust social presence without violating NRPD Rules and Regulation sections 3.1, 3.2 and 3.4. **(Staff will review this in 2021 and determine if it can be accomplished with existing resources. If not, staff will report back to City Council if doing so is infeasible.)**
- The Committee recommends the hiring of a community stakeholder liaison. The liaison will be responsible for implementing strategic initiatives to foster better police/community relations. The individual will work closely with the Youth Bureau and other various City/State agencies to ensure better communication between City, State, Federal agencies and the community stakeholders. **Staff will review this in 2021 and determine if it can be accomplished with existing resources. If not, staff will report back to City Council if doing so is infeasible.)**
- The Committee recommends NRPD explore other potential community crisis responders with a focus on de-escalating outcomes. **(This recommendation should be referred to the CPPB for review and recommendation.)**
- The Committee recommends NRPD implement the (ABLE) Project. (Note: It is recommended that specific training models be reviewed by the CPPB and that the CPPB make a recommendation to the Police Commissioner and the PD Training Officer for consideration in each year's Training Program.) **(This recommendation should be referred to the CPPB for review and recommendation.)**
- Examination of civil service policies. Consider tools available to advance practices that focus beyond cognitive abilities to measure key personality traits, community-oriented skills and capabilities. Explore opportunities for candidates to earn hiring "points" from a range of desirable attributes, specifically focused to mitigate disparate impact that minority or working class, or low-income candidates may have in the process. Consider current educational requirements thoughtfully and whether they present a barrier or can

be adjusted in other ways to get more qualified candidates in the door while still incentivizing the attainment of higher education and its corresponding benefits for officers. The New Rochelle Police Department should pursue both diversity and local hires, but to the extent these goals conflict, diversity is higher priority. **(City staff will review possible actions that can be undertaken or requested and report back to City Council in 2021. It is understood that actions may be possible at both the local Civil Service and State Civil Service levels.)**

## COMPONENT 11 ITEMS THAT REQUIRE ADDITIONAL STUDY AND DISCUSSION

The Policing Review Committee made several other recommendations that will require further study to provide the City Council additional information to facilitate a discussion, particularly when there are budgetary implications. The City Manager is directed to undertake the review of these items and provide the City Council a report by November 1, 2021 so they can be reviewed in connection with the City's proposed 2022 Budget.

The Committee recommendations that require further review and are to be included in the report to City Council are:

- The Committee recommends the hiring of police officers and community members who will allow the creation of relationships that will reduce crime in hot spot areas, including 5 police officers assigned solely to Peter Bracey and Heritage Homes. These officers should be trained in community service model practices that will help to build trust and engagement between the residents and the police. **(Staff will evaluate this recommendation, including the cost to implement, and report back to City Council.)**
- The institution of a “Cure Violence” program where leaders in the community are trained to change norms, respond to shootings, organize the community and mediate violence and proactively address areas with high risk. **(This recommendation should be referred to the Clergy Rapid Response Team and the CPPB.)**
- The institution of a Credible Messengers program, in which formerly incarcerated community members with street credibility receive mediation training (for disturbances/disputes/suspicious person/trespassing/juvenile disturbance calls not related to mental health issues) and are able to connect with and motivate the most at-risk young people to successfully challenge and transform destructive thinking, attitudes and actions. **(A related initiative is currently underway in the New Rochelle City Court with the creation of an “Opportunity Youth Part.” Members of the NRPD PACT Youth have been involved in this program since October 2020, and will continue to provide assistance to the Court. The New Rochelle City Court Opportunity Youth Part (“OYP”) serves young people ages 16-24 who are not in school, unemployed or under-employed, and typically disconnected from positive services within their communities. The OYP treats these emerging adults in a developmentally-appropriate manner that enables them to become productive members of society which further enhances public safety. The Court provides**

an alternative to incarceration or other punishment by providing a community-centric approach that is supported by a collaborative of local stakeholders including the district attorney's office, defender associations, academics, educators, health care professionals and other local community organizations. Through regular hearings and conferences, the Judge leads a team of local stakeholders who provide close case management that links eligible young adults facing misdemeanor or felony charges to mental health, job training and placement, substance abuse, academic and mentoring services. Members of the NRPD PACT Youth have been involved in this program since October 2020, and will continue to provide assistance to the Court. In addition, the Court is exploring a potential partnership with the incoming Westchester County District Attorney to provide restorative justice programming. The OYP is positioned to be a leader on Emerging Adult Criminal Justice Reform, which is an integral part of ending mass incarceration and racial disparities in our justice system. In addition, the Court is exploring a potential partnership with the incoming Westchester County District Attorney to provide restorative justice programming. These efforts should be strongly supported by the City government.)

- The Committee also recommends that the NRPD should proactively collaborate with the appropriate City Department (for example the communications department) to continuously monitor the languages spoken by residents of New Rochelle. As new languages become prevalent in our community efforts should be made to translate these materials into the emerging languages in our community. **(Staff will evaluate this recommendation, including the cost to implement, and report back to City Council.)**
- The Committee also recommends digitizing all police employment records and civilian complaints. **(Staff will evaluate this recommendation, including the cost to implement, and report back to City Council.)**

## COMPONENT 12 OTHER RECOMMENDATIONS

The Committee recommends an affirmative declaration from NRPD that they will not purchase or look for grants to purchase military grade weapons including rubber bullets, chemical gases. **(NRPD has presented City Council with a report on the use of weapons of this kind by the Department including what is maintained and under what circumstances these weapons are used. Staff is directed that should there be any additions to this report, the additions shall be submitted to the City Manager who will forward to the City Council for their information.)**

## APPENDIX A

No. 203

### EXECUTIVE ORDER

#### **NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE**

**WHEREAS**, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

**WHEREAS**, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the Office of Governor; and

**WHEREAS**, beginning on May 25, 2020, following the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability; and

**WHEREAS**, there is a long and painful history in New York State of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America; and

**WHEREAS**, this recent history includes a number of incidents involving the police that have resulted in the deaths of unarmed civilians, predominantly black and African-American men, that have undermined the public's confidence and trust in our system of law enforcement and criminal justice, and such condition is ongoing and urgently needs to be rectified; and

**WHEREAS**, these deaths in New York State include those of Anthony Baez, Amadou Diallo, Ousmane Zango, Sean Bell, Ramarley Graham, Patrick Dorismond, Akai Gurley, and Eric Garner, amongst others, and, in other states, include Oscar Grant,

Trayvon Martin, Michael Brown, Tamir Rice, Laquan McDonald, Walter Scott, Freddie Gray, Philando Castile, Antwon Rose Jr., Ahmaud Arbery, Breonna Taylor, and George Floyd, amongst others,

**WHEREAS**, these needless deaths have led me to sign into law the Say Their Name Agenda which reforms aspects of policing in New York State; and

**WHEREAS**, government has a responsibility to ensure that all of its citizens are treated equally, fairly, and justly before the law; and

**WHEREAS**, recent outpouring of protests and demonstrations which have been manifested in every area of the state have illustrated the depth and breadth of the concern; and

**WHEREAS**, black lives matter; and

**WHEREAS**, the foregoing compels me to conclude that urgent and immediate action is needed to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust; and

**WHEREAS**, the Division of the Budget is empowered to determine the appropriate use of funds in furtherance of the state laws and New York State Constitution; and

**WHEREAS**, in coordination with the resources of the Division of Criminal Justice Services, the Division of the Budget can increase the effectiveness of the criminal justice system by ensuring that the local police agencies within the state have been actively engaged with stakeholders in the local community and have locally-approved plans for the strategies, policies and procedures of local police agencies; and

**NOW, THEREFORE**, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of

New York, in particular Article IV, section one, I do hereby order and direct as follows:

The director of the Division of the Budget, in consultation with the Division of Criminal Justice Services, shall promulgate guidance to be sent to all local governments directing that:

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.

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.

The political subdivision, in coordination with its police agency, must consult 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

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**New Rochelle Policing Review Committee Report**

*Initial Report Submitted on November 4, 2020*

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## SUMMARY

Transparency and trust, these two words were repeated throughout the New Rochelle Policing Review Committee's ("committee") meetings and at each of the community input meetings. This report provides the committee's recommendations for ways the New Rochelle Police Department ("NRPD") can improve transparency and trust with the community it is charged to serve and protect.

The committee would be remiss in not acknowledging a 2015 report from a community group charged by the New Rochelle City Council to review community policing. Both the 2015 and 2020 committees were convened by the City Council and the 2020 report also falls under Governor Cuomo's Executive Order No. 203. The 2015 and 2020 committee reports explicitly focus on the need to improve trust, transparency and accountability between the community and NRPD. The 2020 report also provides recommendations related to use of force, training, data, transparency, oversight and civilian complaints and equipment. This report is divided by each topic and addresses the committee's goal, background, summary of recommendations and anticipated cost.

It bears repeating that it was the shocking killing of George Floyd and subsequent protest that motivated the Governor's Executive Order. Governor Cuomo stated, "The protests taking place throughout the nation and in communities across New York in response to the murder of George Floyd illustrate the loss of community confidence in our local police agencies — a reality that has been fueled by our country's history of police-involved deaths of black and brown people."

The committee also wants to acknowledge that the fatal shooting of Kamal Flowers in New Rochelle this summer has heightened the urgency and the need for a vigorous community review and engagement with the City and NRPD. In the words of the Equal Justice Initiative, "*We must truthfully confront our history of racial injustice before we can repair its painful legacy.*"

While the Governor's Order requires the committee's plan to be offered for public comments and presented to the local legislative body for adoption by April 1, 2021 the committee is submitting this report on October 30, 2020, at the request of the City Manager, in an effort to align recommendations requiring funding with New Rochelle's 2021 budget process. Given the Governor's order's deadline the committee considers this a preliminary report and specifically reserves the right to submit a supplemental report and recommendations based on future developments with Westchester County<sup>1</sup> and New Rochelle.

As part of preparing the 2020 report, there were a series of documents that formed a starting point for the committee's review. Those foundational documents should be read in tandem with this report. These documents consist of the following:

1. New Rochelle Police Department – Special Report to the City Council presented in July 2020<sup>2</sup>
2. Governor Cuomo's Executive Order Number 203<sup>3</sup>

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<sup>1</sup> The County Executive has authorized the formation of a Police Reform Task Force which may issue recommendations that impact this committee's final recommendations.

<sup>2</sup>[https://docs.google.com/gview?url=https%3A%2F%2Fnewrochelle.granicus.com%2FDocumentViewer.php%3Ffile%3Dnewrochelle\\_8b487e1c68b8bf72701ca1ff602eace5.pdf%26view%3D1&embedded=true](https://docs.google.com/gview?url=https%3A%2F%2Fnewrochelle.granicus.com%2FDocumentViewer.php%3Ffile%3Dnewrochelle_8b487e1c68b8bf72701ca1ff602eace5.pdf%26view%3D1&embedded=true) (page 134 and a copy of the 2015 NRCCP report is found on page 169)

<sup>3</sup>[https://docs.google.com/gview?url=https%3A%2F%2Fnewrochelle.granicus.com%2FDocumentViewer.php%3Ffile%3Dnewrochelle\\_8b487e1c68b8bf72701ca1ff602eace5.pdf%26view%3D1&embedded=true](https://docs.google.com/gview?url=https%3A%2F%2Fnewrochelle.granicus.com%2FDocumentViewer.php%3Ffile%3Dnewrochelle_8b487e1c68b8bf72701ca1ff602eace5.pdf%26view%3D1&embedded=true) (page 243-244)

3. Governor Cuomo's New York State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens<sup>4</sup>

In closing, many hours were spent by volunteer committee members, City Staff and NRPD reviewing policies and engaging in challenging, but thoughtful conversations rooted in the desire to serve New Rochelle and enhance the trust between the community and NRPD. The committee looks forward to seeing the timely implementation of the recommendations that come from this report.

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<sup>4</sup> <https://www.governor.ny.gov/news/governor-cuomo-announces-new-guidance-police-reform-collaborative-reinvent-and-modernize>

## **BACKGROUND**

Charles B. Strome III, New Rochelle City Manager, convened the committee in response to a request by the New Rochelle City Council and in response to Governor Andrew Cuomo's Executive Order No. 203. The committee was charged to examine the following topics:

- Use of force policy and training;
- Data disclosure and transparency;
- Community engagement;
- Oversight/Discipline/Complaint procedures;
- Equipment and
- Other Issues.

After a citywide request for applications to serve on the committee, the committee was formed on August 13. Once formed, the committee met six times, hosted five community input meetings<sup>5</sup> beginning in August 2020 through October 2020. The primary goal of the committee was to review the aforementioned matters and submit recommendations to the City Council for consideration as part of the 2021 budget process. It is anticipated that the Committee will continue to hone its recommendations and submit a supplemental report within the next few months.

**Committee Members:** Lisa Burton, Alvin Clayton, Kwamain Dixon, Natasha Fapohunda, Robin Frankel, Nat Harris, Carmelo Hernandez, William Iannuzzi, Jason Labate, Wynter Parham, Wendell Sears, Emma Silva, Jabari Skeene and Steven Sonet.

**Staff Representatives:** Mayor Noam Bramson, City Manager Charles B. Strome III, NRPD Commissioner Joseph Schaller, NRPD Deputy Police Commissioner Robert Gazzola and Chief of Staff/Corporation Counsel Kathleen Gill were non-voting participants. Council Member Yadira Ramos-Herbert represented the City Council and acted as a non-voting facilitator of the committee.

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<sup>5</sup> Community input meetings were virtually held on 8/31/2020, 9/1/2020, 9/2/2020, 10/7/2020 and 10/28/2020.

## USE OF FORCE AND TRAINING

### Goal:

“It is important to engage both internal and external stakeholders in the development and implementation of your police department’s training materials and curricula. Incorporating members of the community in this process can strengthen the overall quality of your training program while reinforcing public trust and ensuring that your training and education programs reflect the values of your community (Cuomo, 2020, p.90).”<sup>6</sup>

### Background:

Many of our neighbors of color reported personal experiences that reduced and impacted trust with the NRPD. The July 2020 special report identifies many ways the NRPD has provided or participated in a number of community-based programs but there is not an example of a structured, formal collaboration between the NRPD and the community to proactively address use of force and training policies.

The committee suggested NRPD implement the Active Bystandership for Law Enforcement (ABLE) Project, a holistic program and training designed to support a culture of peer intervention and active bystandership to prevent misconduct, reduce officer mistakes, and promote officer wellness. In response to the recommendation the NRPD expressed some reservations. The reservations were based on the following: many of the concepts are already part of the NRPD training program, the additional allotted training time that would be mandated and the specific structure of the course that is required to be followed with some elements in contrast with what NRPD is mandated to teach.

### Summary of Recommendation:

1. The committee recommends NRPD participate in rigorous and robust training that focuses on advancing procedural justice practices, emotional intelligence, community-oriented policing, and specifically addresses the role of race in officer’s perceptions of risk and their decision making in potentially dangerous interactions with citizens.
2. The committee strongly recommends implementation of the Implicit Bias training that was delayed due to COVID-19 and refreshes ICAT.
3. The committee recommends NRPD consider the implementing universal crisis intervention training for all officers.
  - a. The committee recommends NRPD engage in robust training on when and how to engage Clergy Rapid Response Team.
  - b. The committee recommends NRPD explore other potential community crisis responders with a focus on de-escalating outcomes.
  - c. The committee recommends the City Council join any County level shared services model for crisis responders.
4. The committee recommends NRPD implement the (ABLE) Project:

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<sup>6</sup> Cuomo, A. (2020). *New York State Police Reform and Reinvention Collaborative: Resource Guide for Public Officials and Citizens*, p. 90.

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police\\_Reform\\_Workbook81720.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf)

- a. The ABLE Project is a unique and model program. The training itself is evidence based and tested, demands a commitment by the police agencies to cultural change, and is supported by a broad cross section of both police and community groups.
  - b. Yonkers has been accepted<sup>7</sup> into the ABLE program which suggests the NRPD has an opportunity to join the ABLE Project and become a leader in embracing progressive training and proven practices to advance cultural change within policing in Westchester County.
5. The committee recommends collaboration between NRPD and community members to “co-produce” and update policies and training programs in a manner that reflects clear roles and responsibilities to achieve community centered safety goals, violence reduction and address key problem areas. Special consideration should be paid to Use of Force and De-escalation policies to reflect norming best practices, including the ban of intentional neck and chokeholds.
  - a. As noted in the special report, since 1983, the NRPD has successfully received accreditation from the New York State Division of Criminal Justice Services. Receiving accreditation requires a review and audit of policies every three-five years for compliance. The NRPD responded “We agree with the Committee that policies should be regularly reviewed and updated.”
  - b. The committee recommends leveraging this process to include community stakeholders any time policies are revised as this will help facilitate the “co-production” and by extension trust between the community and the NRPD.
6. The committee recommends the creation of a *Serious Incident Review Board* comprising of sworn staff and community members to review cases involving officer involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency.
  - a. NRPD responded this has merit and will be further explored.

**Anticipated Cost:**

The committee and community will learn the 2021 allocation as part of the budget process and encourages the allocated funding to be focused on the training as detailed above.

1. In 2020, the City budgeted \$91,150 for training<sup>8</sup> and in 2018 \$33, 591 was the actual amount spent towards NRPD training and development. We will learn the 2019 actuals as part of the 2021 budget process.
2. ABLE Project training is free to accepted police departments and requires a dedicated program manager who will roll out, promote, and reinforce the program.

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<sup>7</sup> On October 1, 2020 Yonkers Police Department announced it was accepted to participate in the ABLE Project <https://www.yonkersny.gov/Home/Components/News/News/6985/3218?backlist=%2Ffive%2Fpublic-safety%2Fpolice-department>

<sup>8</sup> 2020 Adopted Budget and the Police Budget can be found on pages 149-172. <https://www.newrochelleny.com/DocumentCenter/View/11735/2020-Adopted-Budget>

- a. There are staffing costs in adding an additional eight-hour training to the existing in-service training program that would fall under overtime expenses and in preparing reports for the program, the committee recommends this investment.
3. Co-producing policies and trainings will not come at a significant financial cost.

## DATA DISCLOSURE AND TRANSPARENCY

### Goal:

“Transparency is one of the four pillars of procedural justice and is critical to ensuring accountability. Without a full picture of law enforcement policies, procedures, and activity, the public cannot meaningfully evaluate the performance of law enforcement. Even a well-functioning department risks losing public confidence when it does not engage in meaningful transparency. Departments should consider various ways to make law enforcement practices more transparent to the public. Data is an important tool for improving accountability because it provides the public with insight into police activity and can be leveraged to inform data-driven policies (Cuomo, 2020, p71).”<sup>9</sup>

“Data collection and utilization will allow the New Rochelle Police Department to identify and proactively address any disparate impact on racial, ethnic and/or gender groups. Data can also support “data-driven and intelligence-led policing efforts (Id., p.74).”<sup>10</sup>

### Current Status:

The NRPD produces an annual report every year, reporting the Department’s record of criminal activity and enforcement activity. The annual report is published in May of the year following the year referenced in the report. The report includes information about current staffing and the racial and gender composition of the staffing.

The report does not include the racial, ethnic or gender composition of people who are arrested, suspects, victims, complainants or other people involved in incidents. This type of information who NRPD stops or investigates currently exists in 4 different databases but the records management systems have never been engineered to provide/or aggregate this information.

The NRPD webpage is a part of the City’s overall webservice but is not utilized to its full potential. The webpage does not provide translation and this limits the ability for Spanish speaking residents to engage with information provided.

In order to file a complaint against an officer, a resident must print the form and either deliver it in person or mail in the completed form.

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<sup>9</sup> Cuomo, A. (2020). *New York State Police Reform and Reinvention Collaborative: Resource Guide for Public Officials and Citizens*, p. 71.

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police\\_Reform\\_Workbook81720.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf)

<sup>10</sup> Cuomo, A. (2020). *New York State Police Reform and Reinvention Collaborative: Resource Guide for Public Officials and Citizens*, p. 74.

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police\\_Reform\\_Workbook81720.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf)

### **Summary of Recommendations:**

1. The committee recommends that the NRPD update its website and allow public access to monthly reports that detail racial, ethnic, gender and location data related to all police stops, crime data, complaint data, vehicle and traffic law and daily activity logs.
  - a. The committee recommends the hiring of a data entry clerk who will aggregate the information in a manner that allows monthly digital access.
2. The committee recommends all information shared on the NRPD website be provided in English and Spanish.
  - a. The committee also recommends that the NRPD should proactively collaborate with the appropriate City Department (for example the communications department) to continuously monitor the languages spoken by residents of New Rochelle.
  - b. As new languages become prevalent in our community efforts should be made to translate these materials into the emerging languages in our community.
3. The committee recommends all complaints concerning a member of the NRPD should be:
  - a. capable of being filed through an on-line fill-in form;
  - b. tracked to a final disposition with a detailed explanation of the ultimate result and
  - c. available to the public with legal necessary redaction.
  - d. all identifying information of complainants should be held confidential and restricted to only those with the need to investigate, resolve or adjudicate such complaints and subject to a strictly enforced retaliation policy which confirms that any retaliation against any complainant will result in disciplinary action and possible termination by the offending officer. The retaliation policy should be clearly stated on the complaint form.
4. The committee recommends that the NRPD should proactively seek opportunities to participate in neighborhood and community meetings. These meetings should have staggered start times and days, accept written comments/questions (via an online portal), the recording of meetings and should be advertised.
5. The committee recommends a comprehensive data management overhaul be undertaken to analyze the following but not limited to collection, maintenance, analyzing, and disclosure practices.
  - a. Numerous examples of departments with transparent data practices can be found particularly by those departments under consent decrees. The creation of easily accessible public dashboards will bring benefit to both community and police.
6. For all stops by a police officer, the committee recommends that all officers are required to give their name, badge number, reasons for the stop and a card with instructions for filing a complaint.

**Anticipated Cost:** The implementation of these recommendations will require the hiring of one administrator (approximately \$70,000 annually), as well as the direct costs associated with website upgrade, software upgrade and technology that facilitates virtual meetings/conference calls.

## **COMMUNITY ENGAGEMENT**

### **Goal:**

The committee's goal is to ensure NRPD is leveraging technology and community policing models to ensure regular and real time engagement between the community and NRPD.

### **Background:**

In 2015, the City Council directed the City Manager to convene a committee focused on community policing ("NRCCP"). One of NRCCP's recommendations was to increase the number of officers in the department as a way to improve community policing.

The rise of social media changes the way members of the community receive information. Hiring someone who is skilled at bolstering information on social media will ultimately permit connecting with a wider audience in a more immediate manner. Engagement can include communicating change in policies, community programs, positive news and developments about the department and sharing information in times of crisis. Adaptation to new means of communication is key to community engagement.

New Rochelle is rich with many community and non-profit organizations who are all key stakeholders in the community but there is not a point person to help facilitate engagement with and across all of the organizations in a robust and organized manner.

The committee has observed certain streets that are in proximity to Peter Bracey Apartments and Heritage Homes (formerly known as Hartley Houses) have become "hot spots" in New Rochelle. These areas have become prone to shootings and quality of life disruptions. The New Rochelle Municipal Housing Authority manages Peter Bracey Apartments and used to manage Hartley Houses. While Heritage Homes is now managed by a private company, the residents of Peter Bracey and Heritage share many of the same concerns. The committee identifies community engagement and facilitated partnership with NRPD as a key ingredient in proactively addressing hot spots.

### **Summary of Recommendation:**

1. Communication modalities have changed and social media is the key way to share information. The committee recommends the hiring a staff member who is trained to permit a more robust social presence without violating NRPD Rules and Regulation sections 3.1, 3.2 and 3.4.
2. Increase personnel to permit improvement of community policing, specifically to address "hot spots" but to also increase engagement with members of the public and community stakeholders.
  - a. The committee recommends the hiring of a community stakeholder liaison. The liaison will be responsible for implementing strategic initiatives to foster better police/community relations. The individual will work closely with the Youth Bureau and other various City/State agencies to ensure better communication between City, State, Federal agencies and the community stakeholders.
  - b. The committee recommends the hiring of police officers and community members who will allow the creation of relationships that will reduce crime in hot spot areas, including 5 police officers assigned solely to Peter Bracey and Heritage Homes. These officers

should be trained in community service model practices that will help to build trust and engagement between the residents and the police.

- i. The reinstatement of Resident Security Officers (“RSO”) who are residents from the community to serve as liaisons with NRPD and helped to reduce crime.
  1. One committee member recalls a time where NRPD trained residents, provided a small stiped and walkie talkie and in turn these RSO’s served as liaisons with NRPD.
  2. City Staff reports the funding from this program was from the Housing Authority and not NRPD.
  3. While the NRPD was not responsible for operating the program, the model, one of intentional and proactive engagement and training with members of the community is a model the committee recommends the NRPD seek to implement.
- ii. The institution of a “Cure Violence” program where leaders in the community are trained to change norms, respond to shootings, organize the community and mediate violence and proactively address areas with high risk.<sup>11</sup>
- iii. The institution of a Credible Messengers<sup>12</sup> program, in which formerly incarcerated community members with street credibility receive mediation training (for disturbances/disputes/suspicious person/trespassing/juvenile disturbance calls not related to mental health issues) and are able to connect with and motivate the most at-risk young people to successfully challenge and transform destructive thinking, attitudes and actions

**Anticipated Cost:**

Different models will yield different costs.<sup>13</sup>

1. The committee recommends a combination of police and civilian hires and reserves the right to submit a supplemental report to provide updated cost assessments.
2. The committee also recommends approaching this request as a 5-year plan where every year additional resources are folded into the budget.

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<sup>11</sup> <https://cvg.org/>

<sup>12</sup> <https://cmjcenter.org/>

<sup>13</sup> One proposal includes hiring 5 additional police officers and the costs of a new police officer ranges from \$100,000 (in year 1) to \$150,000 in year 6. However, other models rely on incorporating community stakeholders in a way that empowers them with budgetary and physical resources to serve as a bridge/liaison to the NRPD.

## OVERSIGHT/DISCIPLINE/COMPLAINTS

### Goal:

The committee's goal is to remove barriers to reporting police misconduct and to ensure transparency should a police officer violate a policy.

### Background:

Ossining recently adopted legislation permitting the creation of a Civilian Review Board.<sup>14</sup> The legislative intent behind adopting the legislation was to ensure public confidence in the "effectiveness and integrity of investigations."<sup>15</sup>

"[Civilian review boards] may have the power to review investigative findings of Internal Affairs bureaus, to conduct their own investigations, to leverage various investigative tools, including subpoenas, and/or to impose discipline. Some entities also have the power to weigh in on key policy decisions (Cuomo, 2020, p.64)."<sup>16</sup>

### Summary of Recommendation:

The committee recommends the creation of an all-civilian structure with discipline power. There are different models that can exist and the committee submits the following as part of the consideration:

1. Model #1: The committee recommends this civilian committee assist in determining policy for the police department, share policy and policy changes in publicly accessible formats, hold public disciplinary hearings, discipline and dismiss police officers and participate in hiring decisions of the Police Commissioner. This group would also receive, investigate and resolve all civilian complaints against police in 120 days, access crime scenes, subpoena witnesses and files with penalties for non-compliance and interrogate officers less than 48 hours after an incident where deadly force is used and other powers.
2. Model #2: *Serious Incident Review Board* which is discussed on page 6 of this report.
3. Model #3: If as part of its police reform task force or county level legislation, Westchester County establishes a Civilian Review Board the committee recommends New Rochelle seek the participation in the County level review board.
4. Model #4: The creation of the Office of an Inspector General which is not a part of NRPD but is an office within City Hall charged with investigating and resolving complaints or allegations of misconduct.

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<sup>14</sup> <https://ecode360.com/6422319> (Village of Ossining, NY – Chapter 7 Civilian Police Complaint Review Board, July 25, 2000).

<sup>15</sup> Id.

<sup>16</sup> Cuomo, A. (2020). *New York State Police Reform and Reinvention Collaborative: Resource Guide for Public Officials and Citizens*, p. 64.

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police\\_Reform\\_Workbook81720.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf)

**Anticipated Cost:**

Different models will yield different costs and this matter would require amendments to the collective bargaining agreement.

## EQUIPMENT

### **Goal:**

The goal is to permit access and transparency of engagement with police officers and members of the community.

### **Background:**

"In-car and body-worn cameras (BWCs) are frequently recommended, and are mandated for some police forces, as monitoring mechanisms to ensure accountability (Cuomo, 2020, p. 79)."<sup>17</sup>

### **Summary of Recommendation:**

1. The committee recommends body cameras for all officers and supervisors operating in the field as well as in-car cameras for all marked and unmarked vehicles.
2. The committee recommends the footage for these cameras should be stored and retained in a way that is easily accessible to third parties such as the NYS Attorney General's Office and requests from the public.
3. The committee also recommends digitizing all police employment records and civilian complaints.
4. The committee recommends an affirmative declaration from NRPD that they will not purchase or look for grants to purchase military grade weapons including rubber bullets, chemical gases

### **Anticipated Cost:**

The anticipated cost is \$1,193,037 over a five-year period to purchase and install body and in-car cameras. The total five-year cost is approximately \$1,443,037 and the City Staff reports there is a pending State grant that will provide approximately \$250,000 towards the cost.

1. City Staff report the initial capital cost of the body cameras is \$381,271 in the first year.
  - a. Body cameras will cost approximately \$210,666 each year in the second through fifth year.
2. City Staff report the initial capital cost for in-car cameras for the entire NRPD fleet (marked and unmarked vehicles) will cost approximately \$129,846 in the first year.
  - a. The capital cost for in-car cameras is \$31,314 each year in the second through fifth year.
  - b. The total five-year cost for in-car cameras for the entire NRPD fleet (marked and unmarked) is \$255,102.
3. Additional costs to be determined based on personnel assessment to facilitate aforementioned recommendations.
4. Additional costs to be determined to facilitate digitizing of records and complaints.

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<sup>17</sup> Id., page 79.

## OTHER

### HIRING

#### Goal:

Increase numbers underrepresented groups, including female and BIPOC officers.

#### Background:

NRPD relies on the NYS Civil Service exams for its hiring pool. NRPD also requires 60 college credits (although some military service is considered as a substitute). NRPD has agreed the workforce demographic should more closely represent to the community. Although preference is given to New Rochelle residents and minority candidates, there remain barriers to a representative police force, not helped by the fact that especially in minority communities, policing is often not seen as an appealing career choice in the current climate.

#### Summary of Recommendations:

1. Examination of civil service policies
  - a. Does this require advocacy to state representatives?
  - b. Consider tools available to advance practices that focus beyond cognitive abilities to measure key personality traits, community-oriented skills and capabilities.
  - c. Explore opportunities for candidates to earn hiring “points” from a range of desirable attributes, specifically focused to mitigate disparate impact that minority or working class, or low-income candidates may have in the process.
  - d. Consider current educational requirements thoughtfully and whether they present a barrier or can be adjusted in other ways to get more qualified candidates in the door while still incentivizing the attainment of higher education and its corresponding benefits for officers.

#### Anticipated Cost:

The committee has just started the process in analyzing the potential costs and reserves the right to submit an additional report once its review is complete.

### FOR PROFIT COMPONENT

#### Goal:

The underlying purpose of the NRPD is to serve and protect the citizens of the City. This purpose should not be subverted by using the resources of the NRPD to generate income through aggressive ticketing practices.

**Background-**The Committee became aware during our meetings with the public that there exists a perception that certain areas of the City are targeted with aggressive ticketing practices while other areas are essentially ignored. This perception only adds to the distance between the NRPD and certain segments of the residents of the City.

**Summary of Recommendations:**

1. Examine City records to discern whether the concern is of merit or merely anecdotal.
2. Determine whether alternate side of the street parking is in fact required for street cleaning purposes.

**Anticipated Cost:**

Unknown, but it seems clear that less aggressive tactics will result in less revenue.

Charles B. Strome III  
City Manager  
(914) 654-2140



515 North Avenue  
New Rochelle, NY 10801  
Fax: (914) 654-2174

Email – Cstrome@newrochelleny.com

City of New Rochelle  
New York

November 10, 2020

**TO: HONORABLE MAYOR AND COUNCIL**

**FROM: CHARLES B. STROME, III, CITY MANAGER**

**SUBJECT: STAFF RESPONSES TO POLICE REVIEW COMMITTEE REPORT**

In August of this year, Governor Cuomo issued Executive Order number 203 (New York State Police Reform and Reinvention Collaborative) which required local government to convene a committee of local stakeholders for a “fact based and honest dialogue about the public safety needs of their community”. In response, I, as City Manager, convened the Police Review Committee. After several Committee meetings, subcommittee meetings and public comment meetings, the Committee has submitted the attached report to me. This memorandum will provide my comments on this report and its recommendations. I am submitting this memorandum as the executive order requires the City to develop a plan in response to the Committee report, offer the proposed Plan in draft form for public comment and ratify or adopt the plan by April 1, 2021.

To end, I will list the Committee’s recommendations below and provide my comments and recommendations in **BOLD** immediately after each Committee recommendation.

**USE OF FORCE AND TRAINING:**

1. The Committee recommends NRPD invest in rigorous and robust training that focuses on advancing procedural justice practices, emotional intelligence, community-oriented policing, and specifically addresses the role of race in officer’s perceptions of risk and their decision making in potentially dangerous interactions with citizens.

**STAFF RESPONSE:** As highlighted in the Training Section of the *New Rochelle Police Department – Special Report to the City Council, July 2020*, all of our training is progressive. Training components are building blocks are reiterated throughout all of our programs and years. Topics such as procedural justice, community policing, accountability, and communicating with the public are continually touched upon. NRPD remains committed to this and is willing to work to enhance such training.

2. The Committee strongly recommends implementation of the Implicit Bias training that was delayed due to COVID-19 and refreshes ICAAT.

**STAFF RESPONSE: NRPD has already conducted internal Implicit Bias training and plans to implement the outside implicit bias training that was planned prior to COVID-19 as soon as practical.**

3. The Committee recommends NRPD consider the implementation of universal crisis intervention for all officers.
  - a. The Committee recommends NRPD engage in robust training on when and how to engage the Clergy Rapid Response Team.

**STAFF RESPONSE: This is currently underway.**

- b. The Committee recommends NRPD explore other potential community crisis responders with a focus on de-escalating outcomes.

**STAFF RESPONSE: Although this would be difficult to achieve locally (the City government has no role in public health, it is a County function), the NRPD and the City staff strongly support that the County reestablish the County Crisis Intervention Team to assist local police agencies in responding to calls that deal with mental health cases where the team's expertise would be very helpful in de-escalating outcomes.**

- c. The Committee recommends the City Council join any County level shared services model for crisis responders.

**STAFF RESPONSE: See answer to (b.) above.**

4. The Committee recommends NRPD implement the (ABLE) Project:
  - a. The ABLE Project is a unique and model program. The training itself is evidence based and tested, demands a commitment by the police agencies to cultural change and is supported by a broad cross section of both police and community groups.

**STAFF RESPONSE: The ABLE program has been reviewed by our Training Unit, a Lieutenant, Sergeant and Detective. They attended a two-day virtual executive seminar with representatives of the EPIC and ABLE programs. While the program has merit, many of its concepts have already been incorporated into our training. Participation requires that our training officers attend in a "train the trainer" course. Anticipated costs would include registration fees, travel expenses (if training is not provided virtually), and the personnel's time. All Department members would then be required to attend an 8-hour (one day) training session. Depending on staffing, that would likely require overtime to backfill openings. After the initial 8-hour training, officers would be required to attend an**

annual 2-hour refresher course. Additionally, ABLE requires participating agencies to create and submit reports to the program's administrative staff. It is unknown how burdensome that would be on our Training Staff, however, it will require the time of one or more of our staff to complete. Our Training Unit does not subscribe to the one-size fits all type of training programs and is best situated when we develop our programs through collaborative efforts while using the positive concepts from developed programs to enhance our existing training programs. We are certainly open to new approaches and ideas but most "new" programs repackage older proven concepts and techniques. Based on the fact that many of the concepts are already part of our training programs, the additional allotted training time that would be mandated, and the specific structure of the course that is required to be followed with some elements in contrast to what we already are required to teach (Ex. The topic "Use of Force" is heavily regulated by Federal and State Law), it is not recommended that we participate in the ABLE program.

- b. Yonkers has been accepted into the ABLE program which suggests the NRPD has an opportunity to join the ABLE Project and become a leader in embracing progressive training and proven practices to advance cultural change within policing in Westchester County.

**STAFF RESPONSE:** NRPD representatives have reached out to the Yonkers PD to have further discussions about how they are using the ABLE program. (Note: Later in their report, the Committee suggests the ABLE Project training is free to accepted police departments and requires a program manager who will roll out, promote, and reinforce the program. It should be noted that in addition to the cost for the program manager, the initial training is an 8-hour program which equates to 1 additional day per year per officer which would require a significant expenditure of overtime funds in addition to the administrative costs of the program.)

5. The Committee recommends collaboration between NRPD and community members to "co-produce" and update policies and training programs in a manner that reflects clear roles and responsibilities to achieve community centered safety goals, violence reduction and address key problem areas. Special consideration should be paid to Use of Force and De-escalation policies to reflect norming best practices, including the ban of intentional neck and chokeholds.
  - a. As noted in the special report, since 1983, the NRPD has successfully received accreditation from the New York State Division of Criminal Justice Services. Receiving accreditation requires a review and audit of polices every three-five years for compliance. The NRPD responded "We agree with the Committee that policies should be regularly reviewed and updated."

**STAFF RESPONSE:** I am not sure what the Committee is recommending here. Currently, the NRPD policies are regularly reviewed and updated. Additionally, intentional neck and chokeholds have been banned in the NRPD for quite some time.

- b. The Committee recommends leveraging this process to include community stakeholders any time policies are revised as this will help facilitate the “co-production” and by extension the trust between the community and the NRPD.

**STAFF RESPONSE: Having community review of policies “any time” they are revised is unworkable and unrealistic. As far as the general concept of “stakeholder” review, if the City Council wants to create such a review committee that would review policies on a regular (annual) basis and make recommendations, that is a policy decision Council is within its purview to create.**

6. The Committee recommends the creation of a “Serious Incident Review Board comprising of sworn staff and community members to review cases involving officer involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency.

**STAFF RESPONSE: NRPD reiterates its previous statement that his proposal has merit and can be further explored.**

#### **DATA DISCLOSURE AND TRANSPARENCY**

1. The Committee recommends that the NRPD update its website and allow public access to monthly reports that detail racial, ethnic, gender and location data related to all police stops, crime data, complaint data, vehicle and traffic law and daily activity logs
  - a. The Committee recommends the hiring of a data entry clerk who will aggregate the information in a manner that allows monthly digital access

**STAFF RESPONSE: It is estimated that the cost of such a position would be approximately \$70,000 (salary and benefits) annually and this position is not included in the City Manager’s proposed 2021 budget. However, the City Manager and NRPD would support a budget amendment to add this position as part of the 2021 adopted City budget.**

2. The Committee recommends all information shared on the NRPD website be provided in English and Spanish.
  - a. The Committee also recommends that the NRPD should proactively collaborate with the appropriate City Department (for example the communications department) to continuously monitor the languages spoken by residents of New Rochelle.
  - b. As new languages become prevalent in our community efforts should be made to translate these materials into the emerging languages in our community.

**STAFF RESPONSE: Staff has no objection to this recommendation given appropriate resources. It should be noted that another City Department other than the PD should handle 2a. if it is implemented.**

3. The committee recommends all complaints concerning a member of the NRPD should be:
  - a. capable of being filed through an on-line fill-in form;
  - b. tracked to a final disposition with a detailed explanation of the ultimate result and
  - c. available to the public with legal necessary redaction.
  - d. all identifying information of complainants should be held confidential and restricted to only those with the need to investigate, resolve or adjudicate such complaints and subject to a strictly enforced retaliation policy which confirms that any retaliation against any complainant will result in disciplinary action and possible termination by the offending officer. The retaliation policy should be clearly stated on the complaint form.

**STAFF RESPONSE: Staff has no objection to the on-line fill-in form and in fact this recommendation is already in process.**

4. The committee recommends that the NRPD should proactively seek opportunities to participate in neighborhood and community meetings. These meetings should have staggered start times and days, accept written comments/questions (via an online portal), the recording of meetings and should be advertised.

**STAFF RESPONSE: NRPD currently participates in neighborhood and community meetings whenever we are asked to participate. Neighborhood and community meetings are generally scheduled by the particular neighborhood association involved. Unless a community liaison position is created somewhere in the City organization, it is difficult to envision the Police Department being able to proactively schedule these types of appearances.**

5. The committee recommends a comprehensive data management overhaul be undertaken to analyze the following but not limited to collection, maintenance, analyzing, and disclosure practices.
  - a. Numerous examples of departments with transparent data practices can be found particularly by those departments under consent decrees. The creation of easily accessible public dashboards will bring benefit to both community and police.

**STAFF RESPONSE: In 2018, the NRPD implemented a new CAD (Dispatch) system at a cost of over \$1 million. While it is practical to look to enhance that system with some of these recommended features, replacing the CAD system at this time would not be practical.**

6. For all stops by a police officer, the committee recommends that all officers are required to give their name, badge number, reasons for the stop and a card with instructions for filing a complaint.

**STAFF RESPONSE: If recommendation 3 above under this category is implemented (and it is in process), staff does not see the need to take this additional step.**

## **COMMUNITY ENGAGEMENT:**

1. Communication modalities have changed and social media is the key way to share information. The committee recommends the hiring a staff member who is trained to permit a more robust social presence without violating NRPD Rules and Regulation sections 3.1, 3.2 and 3.4.

**STAFF RESPONSE:** The Police Department has no objection to this recommendation however, as City Manager, I would advise that the creation of such a position would have to be considered in the context of the entire City budget which, as proposed, does not anticipate this cost.

2. Increase personnel to permit improvement of community policing, specifically to address “hot spots” but to also increase engagement with members of the public and community stakeholders.

- a. The committee recommends the hiring of a community stakeholder liaison. The liaison will be responsible for implementing strategic initiatives to foster better police/community relations. The individual will work closely with the Youth Bureau and other various City/State agencies to ensure better communication between City, State, Federal agencies and the community stakeholders.

**STAFF RESPONSE:** See staff response above relative to City budget.

- b. The committee recommends the hiring of police officers and community members who will allow the creation of relationships that will reduce crime in hot spot areas, including 5 police officers assigned solely to Peter Bracey and Heritage Homes. These officers should be trained in community service model practices that will help to build trust and engagement between the residents and the police.

**STAFF RESPONSE:** Although the NRPD Command Staff would welcome the hiring of 5 additional police officer positions, the City Manager reports that an additional 5 police officer positions would amount to a cost that is not sustainable in the City’s current budget and financial situation. This can always be considered at a future date if and when that financial situation changes in a positive direction.

- i. The reinstatement of Resident Security Officers (“RSO”) who are residents from the community to serve as liaisons with NRPD and helped to reduce crime.
  1. One committee member recalls a time where NRPD trained residents, provided a small stiped and walkie talkie and in turn these RSO’s served as liaisons with NRPD.
  2. City Staff reports the funding from this program was from the Housing Authority and not NRPD.

3. While the NRPD was not responsible for operating the program, the model, one of intentional and proactive engagement and training with members of the community is a model the committee recommends the NRPD seek to implement.

**STAFF RESPONSE:** Staff is willing to work with the various housing developments to enact such a program. However, having said that, the cost of the program could not be sustained in the current City budget and we are unaware of any outside funding sources (State and Federal government) which have programs that would fund such a program. We are willing to help identify funding sources if, in fact, they do exist.

ii. The institution of a “Cure Violence” program where leaders in the community are trained to change norms, respond to shootings, organize the community and mediate violence and proactively address areas with high risk.

**STAFF RESPONSE:** The City Manager recently worked with local clergy to form the Clergy Rapid Response Team which is designed to perform some of the functions recommended here.

iii. The institution of a Credible Messengers<sup>12</sup> program, in which formerly incarcerated community members with street credibility receive mediation training (for disturbances/disputes/suspicious person/trespassing/juvenile disturbance calls not related to mental health issues) and are able to connect with and motivate the most at-risk young people to successfully challenge and transform destructive thinking, attitudes and actions

**STAFF RESPONSE:** Staff is unaware of a program such as this and would have to do additional research in order to comment on it in a complete manner.

#### **OVERSIGHT/DISCIPLINE/COMPLAINTS:**

The committee recommends the creation of an all-civilian structure with discipline power. There are different models that can exist and the committee submits the following as part of the consideration:

1. Model #1: The committee recommends this civilian committee assist in determining policy for the police department, share policy and policy changes in publicly accessible formats, hold public disciplinary hearings, discipline and dismiss police officers and participate in hiring decisions of the Police Commissioner. This group would also receive, investigate and resolve all civilian complaints against police in 120 days, access crime scenes, subpoena witnesses and files with penalties for non-compliance and interrogate officers less than 48 hours after an incident where deadly force is used and other powers.

**STAFF RESPONSE:** While the creation of such a review board would be a policy determination made by the City Council, there is no doubt that doing so would violate the City Charter and be subject to either Impact or Collective Bargaining negotiations. (Please see attached legal opinion from the City’s outside legal counsel on this issue.)

2. Model #2: *Serious Incident Review Board* which is discussed on page 6 of this report.

**STAFF RESPONSE:** As stated previously, staff has stated that this recommendation has merit and should be pursued further.

3. Model #3: If as part of its police reform task force or county level legislation, Westchester County establishes a Civilian Review Board the committee recommends New Rochelle seek the participation in the County level review board.

**STAFF RESPONSE:** If Westchester County moves forward with the creation of a countywide Civilian Review Board, staff would consider participating. However, it is anticipated that the County would face the same bargaining impediments detailed above in the legal memo from our outside labor counsel.

4. Model #4: The creation of the Office of an Inspector General which is not a part of NRPD but is an office within City Hall charged with investigating and resolving complaints or allegations of misconduct.

**STAFF RESPONSE:** The City Manager's proposed 2021 budget includes the creation of an Inspector General position which would be housed in the Law Department and would conduct independent investigations involving all City employees, including the Police Department.

**EQUIPMENT:**

1. The committee recommends body cameras for all officers and supervisors operating in the field as well as in-car cameras for all marked and unmarked vehicles.

**STAFF RESPONSE:** This is included in the City Manager's proposed 2021 Budget.

2. The committee recommends the footage for these cameras should be stored and retained in a way that is easily accessible to third parties such as the NYS Attorney General's Office and requests from the public.

**STAFF RESPONSE:** It is anticipated that this recommendation would be included as part of the NRPD's Body Cam and Dashboard Cam program which should be completely purchased and implemented sometime in 2021.

3. The committee also recommends digitizing all police employment records and civilian complaints.

**STAFF RESPONSE:** Staff does not object to this but would have to review with the City's IT team to determine if it is feasible and the cost of such a program.

4. The committee recommends an affirmative declaration from NRPD that they will not purchase or look for grants to purchase military grade weapons including rubber bullets and chemical gases.

**STAFF RESPONSE:** The NRPD does not agree with this recommendation. The Department currently has what might be considered military grade weapons (M4s and MP5's capable of fully automatic fire), and chemical gases. The rifles give the Department the capacity to respond effectively to an active shooter and similar threats. The Department has chemical gases which might be deployed as the most effective and least lethal means of dislodging a barricaded suspect or dispersing an unruly group of people. It should be noted that this equipment is not routinely carried by officers on patrol and is held in reserve for special circumstances as described above. Additionally, the use of any gases needs supervisory approval before they can be used.

**OTHER:**

1. Examination of civil service policies a. Does this require advocacy to state representatives?

b. Consider tools available to advance practices that focus beyond cognitive abilities to measure key personality traits, community-oriented skills and capabilities.

c. Explore opportunities for candidates to earn hiring "points" from a range of desirable attributes, specifically focused to mitigate disparate impact that minority or working class, or low-income candidates may have in the process.

d. Consider current educational requirements thoughtfully and whether they present a barrier or can be adjusted in other ways to get more qualified candidates in the door while still incentivizing the attainment of higher education and its corresponding benefits for officers.

**STAFF RESPONSE:** The great majority of these recommendations would require amendment to the State Civil Service Laws and are not under the control of the City government. We would be happy to participate in efforts to amend State Civil Service Law to provide additional flexibility to hiring agencies in the State. As for d., this policy is currently under review by the NRPD and City Administration.

**FOR PROFIT COMPONENT:**

The Committee became aware during our meetings with the public that there exists a perception that certain areas of the City are targeted with aggressive ticketing practices while other areas are essentially ignored. This perception only adds to the distance between the NRPD and certain segments of the residents of the City.

1. Examine City records to discern whether the concern is of merit or merely anecdotal.

2. Determine whether alternate side of the street parking is in fact required for street cleaning purposes.

**STAFF RESPONSE:** Staff would be happy to review our ticketing practices to determine if there is aggressive ticketing. However, I would point out that a significant amount of revenue derived from ticketing (moving violations) goes to the State of New York, not the City of New Rochelle so if there is aggressive ticketing occurring, it is not resulting in any significant revenue to the City. The majority of revenue the City keeps from tickets is from parking tickets and the great majority of parking tickets are issued by Community Service Officers, not sworn Police Officers. As for alternate side of the street parking to facilitate street cleaning, I am not sure that this really is a matter for this report. It was mentioned by one member of the public during one meeting. In my experience, residents of the streets that have alternate side parking in order to facilitate street sweeping would not be in favor of removing those restrictions and foregoing the sweeping of their streets.

# LAW OFFICE OF VINCENT TOOMEY

VINCENT TOOMEY\*  
CHRISTINE A. GAETA\*  
THOMAS J. MARCOLINE\*\*

3000 MARCUS AVENUE  
LAKE SUCCESS, NEW YORK 11042

516-358-5690  
FAX 516-775-0237

SENIOR COUNSEL  
HEATHER P. HARRISON

\*ALSO MEMBER CONNECTICUT BAR  
\*\*ALSO MEMBER MASSACHUSETTS BAR

TO: KATHLEEN GILL, Corporation Counsel  
FROM: VINCENT TOOMEY, Labor Counsel  
RE: POLICE DISCIPLINE OPINION  
DATE: NOVEMBER 9, 2020

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Pursuant to Executive Order 203 issued by Governor Cuomo on June 12, 2020, all local governments that maintain police departments must conduct a study of their department with the purposes of addressing the particular needs of the communities served by police agencies; promoting community engagement, trust, fairness, and legitimacy; and addressing any racial bias and disproportionate policing in communities of color. Local governments throughout the State have, in accordance with that Executive Order, established committees to assist the local government in reviewing existing policies and practices and implementing changes. The local legislative body, in this case the New Rochelle City Council, must also act upon proposed changes by April 2021. Our Office has been assisting local governments throughout the region in reviewing existing policies, proposed changes and advising on what aspects of those policies would be subject to collective bargaining. The City has two police unions: the Police Benevolent Association ("PBA"), which represents Police Officers and Detectives, and the Superior Officers Association ("SOA"), which represents Sergeants, Lieutenants and Captains. Both New Rochelle police unions have attempted in past years to negotiate with the City over disciplinary matters. The City has denied those requests. You have asked for our opinion on the bargaining implications which may arise if the City wishes to establish a Civilian Complaint Review Board (CCRB).

Collective bargaining in New York State is governed by a section of the Civil Service Law known as the Taylor Law. The New York State Public Employment Relations Board ("PERB") is responsible for administering and enforcing the Taylor Law. The Taylor Law divides subjects of bargaining into three categories: (1) mandatory subjects of bargaining that require the public employer to bargain over and prohibits unilateral changes relating to those subjects; (2) nonmandatory or permissive subjects, which the employer can bargain over but is not required to; and (3) prohibited subjects of bargaining which cannot be bargained over. Most subjects are mandatory, thus limiting the rights of public employers to implement changes without the consent of the union(s).

The Taylor Law encourages bargaining over most subjects and courts have held that there is a presumption in favor of collective bargaining. See *City of Watertown v. State of N.Y. Pub. Empl. Relations Bd.*, 95 N.Y.2d 73 (2000). Prohibited subjects are exceedingly rare and usually involve matters where the State legislature or the courts have clearly articulated public policy grounds which preempt collective bargaining. See *Watertown*, (“To be sure, where a statute clearly ‘forecloses negotiation’ of a particular subject, that subject may be deemed a prohibited subject of bargaining” citing *Matter of Board of Educ. V. N.Y. State Pub. Empl. Relations Bd.*, 75 N.Y. 2d 660 (1990)).

Employee discipline has been found by PERB to be a mandatory subject of bargaining over which most public employers must bargain and cannot implement changes without the consent of the unions representing their employees. See *Auburn Police Local 195*, 10 PERB 7016 (1977). There are, however, limited exceptions to that rule. Courts have held in several significant cases that police discipline, including investigations, disciplinary procedures and the review of disciplinary determinations, is preempted in certain jurisdictions. See, e.g., *Matter of Patrolmen’s Benevolent Assn. of City of N.Y., Inc. v. New York State Pub. Empl. Relations Bd.* 6 N.Y. 23d 563 (2006); *City of Schenectady v. New York State Pub. Empl. Relations Bd.*, 30 N.Y. 3d 109 (2017); *City of Mount Vernon v. Cuevas*, 289 A.D.2d 674 (3d Dept. 2001). Those jurisdictions would be local governments which had legislation governing police discipline in effect by either state or local law prior to 1941. That year was selected since the New York State Legislature enacted legislation in 1941 which made collective bargaining available over employee discipline for governments that did not reserve police discipline to local control. As of this date, the Court of Appeals and other appellate courts, have found that collective bargaining over police discipline is prohibited for Town and Village police departments within Westchester County that are governed by the Westchester County Police Act. See *Town of Harrison Police Benevolent Assoc., Inc. v. Town of Harrison Police Dept.*, 69 A.D. 3d 639 (2d Dept. 2010); see also *Matter of Patrolmen’s Benevolent Assn. of City of N.Y., Inc. v. New York State Pub. Empl. Relations Bd.*, 6 N.Y. 3d 563 (2006); *Matter of Town of Greenburgh*, 94 A.D. 2d 771 (2d Dept. 1983). That holding was extended by other court decisions to all Town and Village police departments throughout New York State.

The City of New Rochelle, like the other cities in Westchester County and the County itself, is not governed by the Westchester County Police Act. Instead, most of the cities in the County, based upon their population, are subject to the Second Class Cities Act.

The Second Class Cities Act has been found by the New York Court of Appeals to reserve the subject of police discipline to the local government provided that there was a City Charter that was adopted in accordance with the Second Class Cities Law. The Second Class Cities Law provides as follows on the subject of police discipline: “[t]he commissioner of public safety shall have cognizance, jurisdiction, supervision and control of the government, administration, disposition and discipline of the police department.” SECOND CLASS CITIES LAW § 131. See *City of Schenectady v. New York State Pub. Empl. Relations Bd.*, 30 N.Y. 3d 109 (2017)

The New Rochelle City Charter has a provision regarding the retention of control over disciplinary matters. It is in fact, similar to the language contained in the Town Law and Village Law, the Westchester Police Act and the New York City Charter, which is applicable to the New York City Police Department. The New Rochelle City Charter provides at Section 58 that the Police Commissioner shall have charge and control of the administration and discipline of the Police Department. All courts which have reviewed that or similar language have come to the conclusion that police discipline is reserved to local control.

Reserving local control over police discipline is of vital importance. If the subject of police discipline is not reserved to local control by virtue of a preexisting reservation of rights (in effect prior to 1941), then it becomes a negotiable subject. Jurisdictions which do not have local control reserved to them have been forced to collectively bargain disciplinary procedures. Without exception, that has resulted in a diminution of the ability of police chiefs and commissioners to properly maintain discipline. Negotiable subjects include having disciplinary cases decided by labor arbitrators rather than hearing officers appointed by the Police Commissioner. Labor arbitrators are often hesitant to terminate police officers even if there is a demonstrated pattern of misconduct. For example, the City of Minneapolis Police Department has labor arbitrations over police disciplinary cases. Police officials in Minneapolis and throughout Minnesota, where negotiations over police discipline is permitted, have cited labor arbitration as among the reasons they have been forced to retain police officers with negative disciplinary histories. That is the very reason police unions fight to have their disciplinary cases decided by arbitrators.

You have advised me that the City's Police Reform Committee is exploring options such as a Civilian Complaint Review Board (CCRB). While that concept may be well intentioned, and is in the general spirit of ensuring that police officers are properly disciplined, the creation of a CCRB would require a change to the City Charter as it would divest the Police Commissioner of some of the authority granted to him or her by the Charter. While Charter change may be legally possible, such changes are rare and, in this instance, could have the unintended and ironic consequence of making police discipline a mandatory subject of bargaining. The reason for that is that the Charter change would essentially reverse the exemption from collective bargaining which is based upon the Police Commissioner having control over that subject by virtue of a Charter provision in effect before 1941. In jurisdictions where collective bargaining is permitted over police discipline, PERB has held that implementation of CCRB procedures, including participation in and the review of disciplinary determinations, cannot be implemented without the consent of the unions. *See City of Syracuse*, 30 PERB 4623 [1997]; *City of Rochester*, 27 PERB 7003 (1994).

For the foregoing reasons, implementation of a CCRB is not recommended. While there is no perfect discipline system, the City of New Rochelle has maintained effective discipline over its police for many years. Termination of police officers for misconduct in most jurisdictions is relatively rare and dismissals for incompetence are virtually unheard of. That is not the case in New Rochelle. My Office has been prosecuting police disciplinary cases for over three decades in numerous counties, cities, towns and villages. Among them, New Rochelle has the strongest reputation for maintaining proper discipline where warranted, including two cases where former

PBA Presidents have been terminated for misconduct or incompetence. That level of discipline was required in those cases but likely would not occur in other jurisdictions, especially those with collectively bargained disciplinary procedures which would result from not having a preexisting reservation of disciplinary rights prior to 1941 or changing a City Charter provision after that date to permit a CCRB.

I would be pleased to discuss this subject with you, the City Manager or anyone you designate. Please let me know if you have any questions.

cc: Chuck Strome, City Manager