

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF SARATOGA SPRINGS**

NYS POLICE REFORM AND REINVENTION COLLABORATIVE PLAN

WHEREAS, on June 12, 2020, Governor Andrew M. Cuomo, issued Executive Order No. 203 requiring local governments, including the City of Saratoga Springs, to perform a comprehensive review of existing police force deployments, strategies, policies, procedures and practices and, with input from community members and stakeholders, to develop a plan to improve such deployments, strategies, policies, procedures and practices; and

WHEREAS, Executive Order No. 203 was issued by the Governor in response to an outpouring of protests and demonstrations occurring throughout the country following the police-involved deaths of unarmed black and African-American civilians and the ongoing demand for change, action and accountability for the mistreatment and discrimination of such civilians; and in an effort to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures and practices, to better address the particular needs of communities of color, to promote public safety, improve community engagement, and to foster trust; and

WHEREAS, on August 4, 2020, the Mayor, in consultation with the City Council, established the Saratoga Springs Police Reform Task Force and appointed eleven (11) members of the community, together with the Police Chief and the City Attorney, to serve on the Task Force and develop recommendations for the City Council to improve police force deployments, strategies, policies, procedures and practices in accordance with the Governor's Executive Order; and

WHEREAS, the Task Force held more than a dozen public meetings since its establishment, both in-person and virtually, conducted research, engaged community members and stakeholders through a public forum and a community survey, and encouraged public comment by providing opportunities at each and every meeting and on the City's website; and

WHEREAS, the Task Force established twelve (12) sub-committees in an effort to further enlarge community input and participation, through focused review of identified areas of concern including, among others, police culture, training and education, use of force and related policies, transparency and accountability; and

WHEREAS, following a thorough and extensive review, the Task Force, with involvement and input from community members, developed a "Reinvention Plan: Toward a Community Centered Justice Initiative", which contains a multitude of recommendations for the City Council to consider as part of the overall effort to improve police force deployments, strategies, policies, procedures and practices; and

WHEREAS, the Task Force recommendations have been made available for public review and comment, provided to community entities and stakeholders identified in the Executive Order and reviewed, discussed and deliberated by the City Council, with due consideration of comments from community members and stakeholders.

NOW, THEREFORE, BE IT RESOLVED, that the City Council, in accordance with the Saratoga Springs City Charter and Governor Cuomo’s Executive Order No. 203, makes the following findings and determinations on the identified Task Force recommendations as contained in the enumerated sections of the “Reinvention Plan: Toward a Community Centered Justice Initiative” (A true and complete copy of which is annexed hereto):

SECTION ONE: Culture and Training

The City Council agrees with the Task Force and acknowledges the prevalence of racism which has existed throughout history in the United States. The City Council previously adopted a Resolution on February 16, 2021 declaring that systemic racism must be challenged and eliminated and pledged to exercise its authority to promote racial equity and fairness in the City of Saratoga Springs, to develop and cultivate a diverse and inclusive culture and to eliminate discriminatory systems and practices.

The City Council acknowledges that many of the Task Force recommendations contained in Section One have already been undertaken or implemented by the Police Department, including initiatives relating to community based activities and assertive outreach; efforts to partner with local educational institutions to develop programs; recruiting activities that target broader markets for racial and cultural diversity; and training that focuses on de-escalation, procedural justice and protests. The Department is also currently seeking accreditation and has already submitted the necessary application to DCJS.

Notwithstanding, the Council acknowledges that additional education and training is appropriate and hereby directs the Chief of Police to implement broader educational opportunities and additional training programs consistent with the Task Force recommendations, including the utilization of an independent external consultant, once funding becomes available and budgetary appropriations have been provided. Pending such appropriations, the Chief shall continue efforts to partner with local academic institutions, groups and organizations toward developing educational opportunities and programs that are not dependent upon funding.

SECTION TWO: Policy

The City Council agrees with the Task Force recommendations relating to a third-party policy platform to ensure compliance with Federal and New York State standards, enacted laws and judicial rulings; and that the selection of such provider should be through an open and competitive process. The Council notes that, consistent with the Task Force recommendations, the Police Chief has already posted all existing policies on the City’s website in an effort to increase transparency and such practice shall be maintained.

With regard to Use of Force and Conducted Energy/Control Device policies, the City Council agrees with the general purpose and intent of the Task Force recommendations and, specifically, those which prioritize de-escalation and emphasize alternatives to use of force. The Police Department currently trains officers on such practices and has policies addressing same. However, the Council finds merit in further action and hereby directs the Chief of Police to review all Use of Force and Conducted Energy/Control Device policies and to update such policies in a manner consistent with applicable law and the Task Force recommendations.

The Council also agrees that monitoring, reporting and early intervention are of critical importance in maintaining adherence to use of force policies and accountability for individuals

that do not. The Police Department currently monitors all use of force incidents and complies with reporting requirements for the State database, in accordance with NY Executive Law and applicable regulations. The Department also has procedures in place for retraining officers and, where appropriate, disciplining such officers. The Council also recognizes that the Chief of Police is currently implementing an investigation procedure for use of force incidents where such investigation would be performed by an individual outside the chain of command of the officer under investigation.

Data analytics relative to use of force incidents and Conducted Energy/Control Devices is imperative and the Council agrees with the Task Force recommendations to expand the scope of same. Task Force recommendations relating to Data Analytics is more broadly addressed in Section Four below.

The Task Force's recommendations relative to interagency cooperation during First Amendment assemblies is acknowledged. The Police Department currently has policies in place which govern such assemblies and law enforcement response is based upon intelligence gathered by the Department. Gear and equipment utilized by law enforcement is intended to serve a protective purpose and not a militaristic one. The supervisory staff of the agency requesting law enforcement assistance, under existing policy, retains incident command over all officers assigned to the incident.

The City Council is, however, mindful of the July 30, 2020 incident referenced by the Task Force and hereby directs the Chief of Police to review all policies relative to First Amendment Assemblies and interagency cooperation to ensure clarity and consistency in situations where assistance from outside agencies is requested and to make necessary revisions consistent with applicable law and the Task Force recommendations.

With regard to the Task Force recommendation that the Police Department be precluded from initiating no-knock warrants under any circumstance, the City Council recognizes the debate existing on this issue. No-knock warrants are and should be rarely, if ever, utilized. A no-knock warrant requires an application and review by a presiding member of the judiciary who must be satisfied that either evidence will be destroyed or disposed of or that the officer's life would be endangered through the issuance of an announced warrant. However, the Council is also aware that on March 3, 2021 the U.S. House of Representatives passed a bill, entitled the "George Floyd Justice in Policing Act" which if subsequently signed into law would, among other things, ban no-knock warrants in drug cases. The Council, therefore, finds it appropriate to review this issue further and hereby suspends any determination until such time that the Senate has considered the measure and the bill signed into law. If and when passage of the law occurs, the Council will require the Chief of Police to ensure that all policies of the Department are in accordance and consistent with same.

Regarding immigration status of individuals, the Council finds that Department policy already prohibits the detention of any individual for civil violations of federal immigration laws and limits the release of protected information to that which is legally permissible by law. Sharing of information relating to non-criminal immigration violations is currently prohibited. The Council is aware of the Second Department case of People v. Demarco, cited by the Task Force and finds that current Department policy is in compliance with same as it prohibits arrest based upon a warrantless request from federal authorities for a civil immigration violation.

SECTION THREE: Community-Centered Reinvention

The City Council acknowledges the Task Force recommendation that a collaborative arrangement be established “where social workers work with, not for law enforcement agencies”. Equally acknowledged, however, is the fact that such collaboration currently exists. As well, collaborations specifically addressing other issues identified by the Task Force, including mental illness, substance abuse and homelessness, also currently exist. Such collaborations allow the Department to assist in efforts in reaching out to the homeless population and offer basic human needs, including food, clothing, shelter and other personal needs, as well as medical, mental health, behavioral health and addiction counseling services.

The City Council, therefore, disputes and takes exception to the statement by the Task Force that “unhoused people are regularly subjected to harassment from police” and notes that the Task Force report is devoid of any factual support for such statement.

The Police Department has long developed partnerships with community stakeholders, agencies and non-profit service providers and was an original participator in the Saratoga Collaborative to End Homelessness, which subsequently evolved into the Assertive Outreach Team, and includes collaboration with Shelters of Saratoga, Salvation Army, Saratoga Hospital, Addiction Care Center of Albany, RISE Housing and Support Services, Captain Community Human Services, New Choices Recovery Center, Adirondack Health Institute, Saratoga County Career Center, NYS Department of Family Assistance, and the Saratoga County Economic Opportunity Council.

The Police Department is also actively involved with the Mental Health/Substance Use Disorder partnership, which includes Saratoga County Mental Health, Healing Springs Recovery Community and Outreach Center, St. Peter’s Addiction and Recovery Center, Mental Health Association of New York State, Saratoga Hospital, Catholic Charities of Saratoga, The Independent Living Center, Northeast Family Resource Center and New Choices Recovery Center, among others. The Department also works closely with Wellspring to provide advocacy and support services for sexual assault and domestic abuse victims; and to ensure that all Department training and policies reflect the most current information and best practices in addressing such issues.

In addition to the myriad efforts of the Police Department, the Council has also long provided financial and other support to numerous non-profit and social service providers, including, but not limited to, The Saratoga Senior Center, Franklin Community Center, Shelters of Saratoga, Saratoga Center for the Family and EOC Soup Kitchen. Such support has consistently been included in adopted City budgets, even during the current fiscal crisis.

With regard to the Task Force recommendation that the Police Department terminate certain training; prohibit the receipt or use of certain retired military weapons or vehicles; and ban any outside department from entering the City with such military equipment, the Council finds that current Police Department training is consistent with state and federal training guidelines and the Department does not participate in the DOD 1033 Program referenced by the Task Force. The Council further notes that it does not have authority to control the type of equipment or weapons purchased or utilized by county, state or federal law enforcement, nor the authority to ban such entities from entering the municipal boundaries of the City.

Regarding the recommendation to divert seized assets from criminal charges to Community Based Restorative Groups or, alternatively, community service organizations, the City Council notes that expenditures from funds realized through asset forfeiture are strictly governed and, while the City has historically received only minimal funds through asset forfeiture, any and all expenditures must comply with applicable requirements and be used for law enforcement purposes.

The City Council does agree with the Task Force recommendation to evaluate and implement an education pilot program that teaches officers the history of policing in America and the City, with an emphasis on the impact policing has had on diverse communities and directs the Chief of Police to progress toward implementation of such a program.

SECTION FOUR: Transparency and Accountability

The City Council accepts and agrees with the Task Force recommendations relating to Data Analytics. Identifying trends and patterns in police interactions through the collection and analysis of data is helpful in determining whether disparities exist and allows the Department to make necessary changes in response to same. The NYS forms utilized by the Department are limited in their data fields, however, the Chief of Police has since created new procedures and data fields to more thoroughly capture information in line with the Task Force recommendations.

Consistent with the those recommendations and the actions already implemented, the Chief of Police is hereby directed to continue and expand the collection and compilation of data relating to all Departmental investigative activities and to categorize those by types of calls/stops and to indicate the race, national origin, gender and demographic information of involved individuals, excluding any personally identifying information, and to make such data publically available. The Chief shall further ensure that Department policy is consistent with such directive and applicable law.

The Council will consider, if and when budgetary appropriations become available, the creation of a new position of Database Manager as recommended by the Task Force or, alternatively, the expansion of duties under an existing title, subject to compliance with the City Charter and NY Civil Service Law.

The City Council further accepts the revised Complaint Form and Instructions recommended by the Task Force (Appendix "I" and "J") and hereby directs the Chief of Police to implement same and to make available on the City's web-site.

With regard to the Task Force's recommendation to implement a Civilian Review Board, the City Council recognizes the history and debate which has surrounded this issue and finds that while merit may exist for such a program, further review is necessary.

Title 6 of the City Charter vests the Commissioner of Public Safety with the "jurisdiction, supervision, and control of the governance, administration, disposition, operation, and discipline of the Police Department and its officers". Such authority would seemingly include that which the Task Force recommends be provided to the proposed Civilian Review Board and, as such, the City Council may be limited in its ability to act upon such recommendation.

There also remain questions regarding the impact such a Board would have on the existing Collective Bargaining Agreements, including those between the City and the Saratoga

Springs Police PBA, Lieutenants and Administrative Officers Unit and, specifically, whether any conflicts exist between the procedures proposed to be under the authority of a Civilian Review Board and those contained in the aforementioned Agreements, sufficient to require negotiations with the respective unions.

Likewise, review of the recommended Civilian Review Board's authority, process and procedures will be necessary to confirm that same do not conflict with or run afoul of the applicable requirements of New York State Civil Service Law including, in particular, Section 75, and to additionally ensure that the rights to due process of any individual who may be subject to such civilian review are not unduly or unlawfully restricted.

The City Council further finds that certain provisions of the proposed Civilian Review Board, as set forth in Appendix "G", also require additional analysis prior to any action or determination. For example, the Task Force recommendations appear to limit the Civilian Review Board's authority to addressing only those complaints which are received "from a resident of the City". Such provision fails to address complaints which may be received from individuals who do not reside in the City, nor does it allow for the ability of the Board to initiate its own review and investigation.

Other areas warranting analysis, and comparison against alternatives, include the scope or type of complaints which a Civilian Review Board should investigate; whether subpoena power is necessary and/or appropriate; whether authority should be limited to an advisory recommendation or expanded to include ability to discipline; the composition and qualification of members and whether such members should be appointed or elected; training requirements; the ability to retain experienced investigators and/or independent legal counsel; and, importantly, a determination of costs associated with implementing a Civilian Review Board.

The Council is aware of a recent NYS Bar Association publication indicating that the funding required by certain municipalities that have implemented a Civilian Review Board ranged from as little as \$75.00 per officer to as much as \$5,000.00 per officer. Given the number employed with the City of Saratoga Springs, such amount would translate to a potential budgetary impact of between \$5,775.00 and \$385,000.00 annually. For obvious reasons, such range in possible funding would need to be sufficiently narrowed prior to the City Council taking any action.

Ultimately, any implementation of a Civilian Review Board would potentially involve re-negotiating union contracts, amendments to the City Charter and even litigation. Prior to engaging in same, the Council finds it appropriate to more thoroughly review and define the purpose, scope and function of a Civilian Review Board and, therefore, defers any determination until such review has been completed.

SECTION FIVE: Next Steps

As indicated, the City Charter provides the Commissioner of Public Safety with authority and control over the Police Department, including policies, rules, regulations and orders and to ensure that members of the Department receive necessary and proper training.

In accordance with the Charter, the Council finds that any committees or advisory panels recommended by the Task Force to assist in implementation of the directives contained in this Resolution, shall be as established by the Commissioner. The Council strongly encourages the

Chief of Police and the Commissioner of Public Safety to utilize any and all available community resources and advisory input deemed necessary to assist in such implementation.

With regard to the action items identified in Section One through Section Four of this Resolution, the Chief of Police shall report to the City Council and the public on the status and progress of same at the first regular City Council meeting in December 2021, and shall thereafter include such relevant information in the Department's Annual Report, which shall be available for public review.

Ayes _____ Nays _____

As Approved by City Council: _____

City Council of the City of
Saratoga Springs, NY

By: John P. Franck
City Clerk