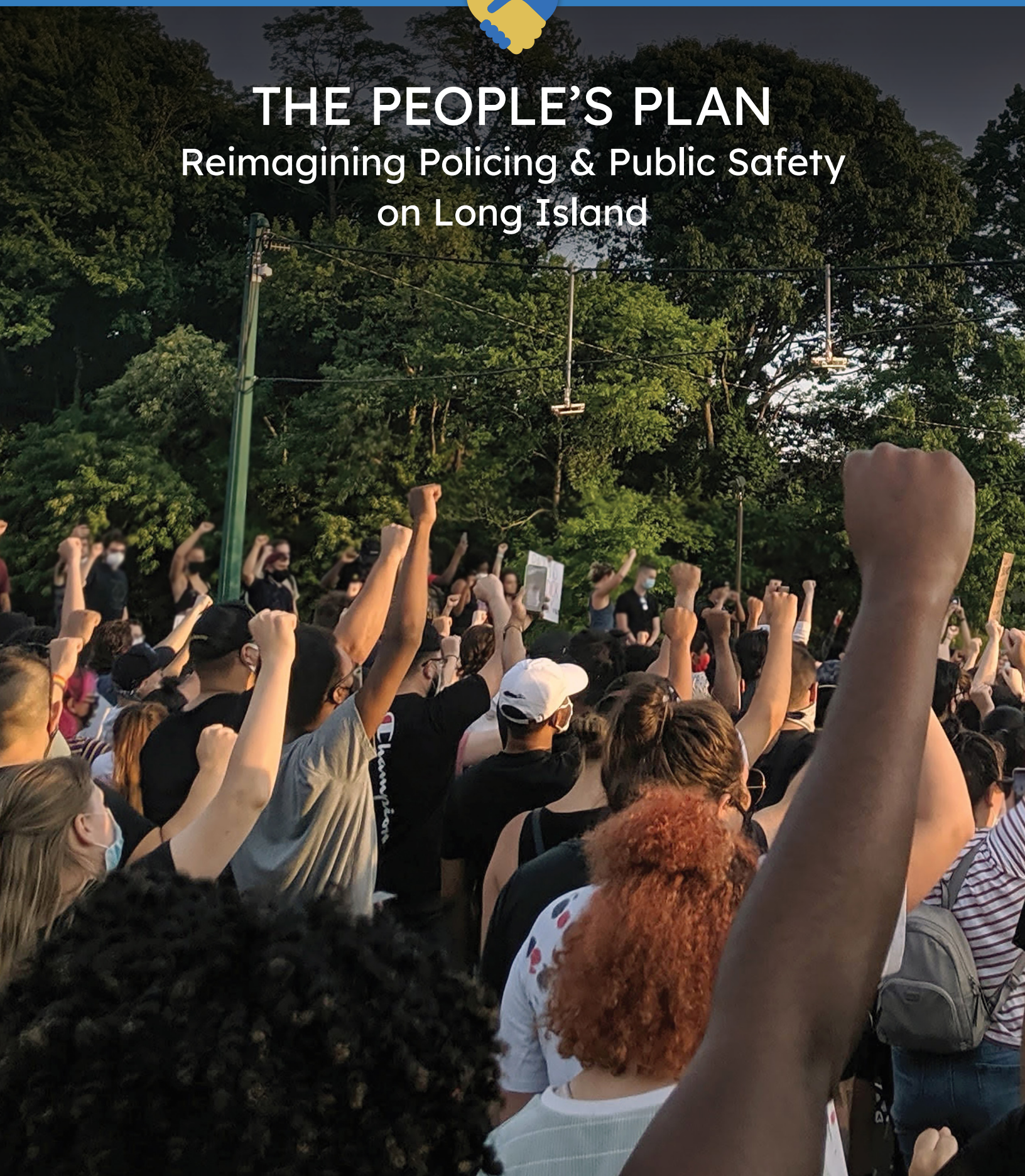
THE PEOPLE'S PLAN

Reimagining Policing & Public Safety on Long Island



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Reimagining Policing & Public Safety on LI

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Long Island United to Transform Policing & Community Safety ("LI United")
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Bend the Arc: Jewish Action Long Island
Black Long Island
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Equality New York
Freeport Worker's Justice Center
Gender Equality New York, Inc.
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SEPA Mujer, Inc.
Shades of Long Island
Suffolk Progressives
The Corridor Counts (TCC)
The Women's Diversity Network
Together We Will Long Island
Uniondale Pop-Up University
Urban League of Long Island
Yung Hip Professionals Inc

See **www.LIUnited.com/Endorsements** and **www.facebook.com/LIAFPA** for the Full and Most Up-to-Date List of Organizational & Individual Endorsers of The People's Plan.

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Prologue

The following volume, which is the ***People's Plan: Reimagining Policing & Public Safety on Long Island***, is presented to both Nassau and Suffolk Counties, to guide, inform and transform the methods by which police departments, agencies and personnel engage the public as they perform their duty. This document goes well beyond police reform. It is about issue of public safety and community well-being and is the product of focused cooperation of several community based / focused groups who have joined their knowledge, talents, energies and dedication to look past what is, and collaboratively address what policing should include in today's world. The work of the ***The People's Plan: Reimagining Policing & Public Safety on Long Island*** (hereinafter "The People's Plan") is issued by Long Island United to Transform Policing & Community Safety (LIUTPCS), Long Island Advocates for Police Accountability (LIAFPA), United for Justice in Policing Long Island (UJPLI) and their member and constituent groups. It is the collaborative effort of community volunteers who have sacrificed countless hours in pursuit of meaningful and long-lasting change. It is that spirit that has led to this significant body of work and it is that same spirit that offers each detail as a gift to the people of Nassau and Suffolk Counties.

As Civil Rights activists, community organizers, educators, social workers, academics, laborers, law enforcement, students, medical professionals, lawyers and others, as well as those on whose behalf we speak who have studied, witnessed and experienced the lack of training, lack of reforms and evidence-based policing strategies of police — we are particularly positioned to assist and round out the narrative to inject serious and real options for change. From the clear racial disparities in car stops to arrests, and from levels of disrespect to acts of excessive force the necessity for changes in policing has been cataloged and confirmed. The need for, and the action of bringing about social change is a complex process. Right now, the voices, minds and bodies of young / and not so young activists, are joined
with residents who have come to know there is something wrong. It is this broad-based convergence of longtime advocates and newly awakened seekers of justice that brings to the table the work that has been forged over years and demands recognition.

It is through the commitment and struggle of generations of those who have demanded that we can and must do better, and those who have dared to speak truth and justice to the powers that be, that the mold for the change which is taking place has been created. The murder of George Floyd and it being brought into every household, every hand-held device and every platform in the world has been the flash point for what many refused to acknowledge, or at least refused to respond to, until now. The People's Plan is a thoughtful and necessary response and is part of a movement which has the ability to bring about monumental change and help to begin to address problems that find themselves wedded to the sin of Racism and subjugation of groups of peoples that have been part of our national DNA for over 400 years. The time is now and how it is addressed in our nation and in Suffolk and Nassau will be a test. Much thanks goes to all those who stand now to push back against the ever-present tide of racism, indifference and backward thinking.

The institution of American policing is one that is riddled with contradictions. On a grand scale, we have not equipped the police with either the training or support to allow them to address things, other than with force. By depriving the police of tools and resources in situations that demand both time and caring to avoid the criminal legal system, we have rewarded those who have high arrest numbers and lauded conviction rates. While claiming to protect and serve, the disproportionate incidents of violent and deadly force used by police against Black people have proven to be the malady now facing us. The cry for an end to police abuse is a byproduct of the demands that fueled that need for protest in the

first place. The societally rooted abuses of the human soul which manifest themselves as inequities in education, housing, employment, essential governmental services, health care, food security, voting rights, and environmental justice are the cocktail which America has served up and continues to avoid addressing.

In order to address the myriad concerns related to and created by police as they are currently deployed into our society, it is imperative that the historical underpinnings in America and policing in the US be understood. The racial divide in the United States was no mistake. From the sin and brutality of the American slave trade, which was government sanctioned, to the creation of laws and rules that perpetuated that system, our country has been consistent in demeaning and dehumanizing Black people, who were kidnapped, shipped like cargo and suffered under the whip to provide free forced labor.

Historians tell us that, contrary to general beliefs, 1619 was not the first time Africans could be found in an English Atlantic colony, and it certainly was not the first time people of African descent made their mark and imposed their will on the land that would someday be part of the United States. As early as May 1616, Blacks from the West Indies were already at work in Bermuda providing expert knowledge about the cultivation of tobacco. There is also suggestive evidence that scores of Africans plundered from the Spanish were aboard a fleet under the command of Sir Francis Drake when he arrived at Roanoke Island in 1586. In 1526, enslaved Africans were part of a Spanish expedition to establish an outpost on the North American coast in present-day South Carolina.[1]

In the region that would become the United States, there were no enslaved Africans before the Spanish occupation of Florida in the early 16th century, according to Linda Heywood and John Thornton, professors at Boston University.[2]

Agreeing with the Smithsonian, Professor Heywood writes that "[t]here were significant numbers who were brought in as early as 1526,". That year, some of these enslaved Africans became part of a Spanish expedition to establish an outpost in what is now South Carolina. They rebelled, preventing the Spanish from founding the colony. According to Heywood, the uprising did not stop the inflow of enslaved Africans to Spanish Florida. "We don't know how many followed, but there was certainly a slave population around St. Augustine,".

Africans also played a role in England's early colonization efforts. Enslaved Africans may have been on board Sir Francis Drake's fleet when he arrived at Roanoke Island in 1586 and failed to establish the first permanent English settlement in America. He and his cousin, John Hawkins, made three voyages to Guinea and Sierra Leone and enslaved between 1,200 and 1,400 Africans.[3]

The slave business prospered in the Americas and grew not only to be accepted, but it was also infused into the fabric of the burgeoning nation through and after the revolution that declared independence from Britain. Coupled with the commercial trading of Black human flesh was the condonation and support provided by those in elected offices at the highest levels of the newly formed nation. The Three-Fifths Compromise was a compromise reached among state delegates during the 1787 United States Constitutional Convention. One of the questions facing those men was, whether and, if so,

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[1] Michael Guasco, "The Misguided Focus on 1619 as the Beginning of Slavery in the U.S. Damages Our Understanding of American History," *Smithsonian Magazine*, SmithsonianMag.com September 13, 2017,
[2] Linda Heywood and John Thornton, "Central Africans, Atlantic Creoles and the Foundation of the Americas 1585-1660," Cambridge University Press: 2007 https://www.smithsonianmag.com/history/misguided-focus-1619-beginning-slavery-us-damages-our-understanding-american-history-180964873/
[3] Crystal Ponti, "America's History of Slavery Began Long Before Jamestown," *History*, History.com, updated August 26, 2019, https://www.history.com/news/american-slavery-before-jamestown-1619

how slaves would be counted when determining a state's total population for legislative representation and taxing purposes was important, as this population number would then be used to determine the number of seats that the state would have in the United States House of Representatives for the next ten years. That compromise, while not mentioning the word slave or slavery, was clear of the firm hold that institution had in the foundation of the nation. It reads:

> ***Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three-fifths of all other Persons***
> -Madison, James (1902) The Writings of James Madison, vol. 3, 1787: The Journal of the Constitutional Convention, Part I (edited by G. Hunt), p. 143

Thereafter, Article one, section two of the Constitution of the United States the "Three-Fifths Clause", was ratified in 1788. Made a part of the United States governing document, it declared that any person who was not free would be counted as three-fifths of a free individual for the purposes of determining congressional representation. The "Three-Fifths Clause" thus increased the political power of slaveholding states. It did not, however, make any attempt to ensure that the interests of slaves would be represented in the government. This adoption into the Constitution, once again found the young country trading further on the lives of its Black captives.

> "I [patroller's name], do swear, **that I will as searcher for guns, swords, and other weapons among the slaves in my district**, faithfully, and as privately as I can, discharge the trust reposed in me as the law directs, to the best of my power. So help me, God." -Slave Patroller's Oath, North Carolina, 1828.- (Emphasis added)

This oath was just one of its kind among one of the precursors to what we now call police forces or police departments. The more commonly known antecedent to modern law enforcement were centralized municipal police departments that began to form in the early 19th century, beginning in Boston and soon cropping up in New York City, Albany, Chicago, Philadelphia and elsewhere. As reported by multiple sources and historians, the first police forces were overwhelmingly white, male and more focused on responding to disorder than crime. As Eastern Kentucky University criminologist Gary Potter explains, officers were expected to control a "dangerous underclass" that included African Americans, immigrants and the poor. Through the early 20th century, there were few standards for hiring or training officers. The American South relied almost exclusively on slave labor and white Southerners lived in near constant fear of slave rebellions disrupting this economic status quo. As a result, these patrols were one of the earliest and most prolific forms of early policing in the South. The responsibility of patrols was straightforward — to control the movements and behaviors of enslaved populations. According to historian Gary Potter, slave patrols served three main functions.

"(1) to chase down, apprehend, and return to their owners, runaway slaves; (2) to provide a form of organized terror to deter slave revolts; and, (3) to maintain a form of discipline for slave-workers who were subject to summary justice, outside the law."[4]

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[4] Gary Potter, "The History of Policing in the United States," EKU School of Justice Studies, https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf

Historian Sally Hadden writes in her book, Slave Patrols: Law and Violence in Virginia and the Carolinas:

> "The history of police work in the South grows out of this early fascination, by white patrollers, with what African American slaves were doing. Most law enforcement was, by definition, white patrolmen watching, catching, or beating black slaves."[5]

Professor Hadden explains that these slave patrols first formed in 1704 in South Carolina, patrols lasted over 150 years, only technically ending with the abolition of slavery during the Civil War. However, just because the patrols lost their lawful status did not mean that their influence died out in 1865. Hadden argues there are distinct parallels between the legal slave patrols before the war and extralegal terrorization tactics used by vigilante groups during Reconstruction, most notoriously, the Ku Klux Klan.[6] This disastrous legacy persisted as an element of the police role even after the passage of the Civil Rights Act of 1964.

Connecticut, New York and other colonies enacted laws to criminalize and control slaves. Congress also passed fugitive Slave Laws, laws allowing the detention and return of escaped slaves, in 1793 and 1850. As Turner, Giacopassi and Vandiver (2006:186) remark, "the literature clearly establishes that a legally sanctioned law enforcement system existed in America before the Civil War for the express purpose of controlling the slave population and protecting the interests of slave owners. The similarities between the slave patrols and modern American policing are too salient to dismiss or ignore. Hence, the slave patrol should be considered a forerunner of modern American law enforcement."[7] Policing was not the only social institution enmeshed in slavery. Slavery was fully institutionalized in the American economic and legal order with laws being enacted at both the state and national divisions of government.[8]

This wave of devaluation of Black lives was further reinforced in the Courts. One notable decision by the Supreme Court of the United States is in the matter of ***Dred Scott, Plaintiff in Error V. John F. A. Sandford*** (December Term, 1856); 60 U.S. 393, 19 How. 393, 15 L.Ed. 691. In that March 6, 1857 decision, the high Court addressed the central question of, a Black man named Dred Scott who, having lived in a free state and territory, was he free and able to sue in the Courts. Ruling on the issues before it the Supreme Court decided that living in a free state or territory did not entitle an enslaved person to their freedom. In essence, the decision argued that, as someone's property, Scott was not a citizen and could not sue in a federal court. The language of the Court is notable and regrettable throughout however the language was clear that "[a] free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a "citizen" within the meaning of the Constitution of the United States. . . ." Probably one of the most quoted aspect of that decision was:

> ***"But the public history of every European nation displays it in a manner too plain to be mistaken. They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to***

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[5] Hadden, Sally E., "Slave Patrols: Law and Violence in Virginia and the Carolinas," Massachusetts: Harvard University Press, 2001, 4

[6] Ibid, 203

[7] Turner, K. B., Giacopassi , D., & Vandiver , M. "Ignoring the Past: Coverage of Slavery and Slave Patrols in Criminal Justice Texts," Journal of Criminal Justice Education, 2006, 17: (1), 181–195

[8] Victor E. Kappeler "A Brief History of Slavery and the Origins of American Policing," School of Justice Studies Eastern Kentucky University, January 07, 2014, https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing

respect; and that the negro might justly and lawfully be reduced to slavery for his benefit."
-Justice Roger Taney

It is this mindset that has for generations fueled hatred, abuse, and beliefs that continue and make the historical statement of today necessary, that **Black Lives Matter**. With the following years of Black codes and Jim Crow laws, we now find ourselves perched on the unmistakable substructure that all of us, Black, White, Latino, Asian, Indigenous, immigrant, citizen, straight, LGBTQIA+, old, young, women and men, share. The documented truth is that the need to address the harmful foundation on which we stand and the mistreatment of Black and Brown persons in our Country for nearly half a millennium is imperative. It is this reality that led Governor Andrew Cuomo to issue his Executive Order 203 (EO 203), which reminded many and instructed some that:

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 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, 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, [B]lack 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. . .

These words have all been ignored as to why the need for police reform in New York state was the subject of a mandate from the Governor. That same EO 203 made the following unequivocal directives:

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.
(Emphasis added)

It is with this history and background that the groups from diverse communities including scores of organizations, with thousands of members, speaking truth and seeking justice, at this time in our history together extend to the Nassau County Legislature; the Suffolk County Legislature; the people of Suffolk and Nassau Counties the ***The People's Plan: Reimagining Policing & Public Safety on Long Island*** for full consideration and adoption.

Respectfully submitted,

Long Island United to Transform Policing & Community Safety (LIUTPCS)
Long Island Advocates for Police Accountability (LIAFPA)
United for Justice in Policing Long Island (UJPLI)
and their members and constituent groups.

The People's Critique of Nassau County's "Police Reform" Document

Introduction

On January 7, 2021, Nassau County appeared before the Public Safety Committee and unexpectedly released a document called "Police Reform'' that was never shown, discussed, shared or disclosed to the civilian community stakeholders who made up the very bodies that were created to work collaboratively and formulate a plan. Within the 310-page document, the only part of the document which discussed programs and practices were found in the first 57 pages. Curiously, within those first 57 pages, the vast majority includes no reform proposals, instead they focus on reviewing existing policies and procedures. As a result of both this breach of trust and Nassau County's submission of a non-collaborative inadequate reform document, large numbers of the civilian members of Nassau County's police reform task forces, the PACT and CCT, resigned and turned their time, resources and talents to work on The People's Plan to guide, inform and transform the methods by which police departments, agencies and personnel engage the public as they perform their duty. The work of The People's Plan is issued by Long Island United to Transform Policing & Community Safety (LIUTPCS), Long Island Advocates for Police Accountability (LIAFPA), and United for Justice In Policing Long Island (UJPLI) and their member and constituent groups. This critique of the Nassau County Reform draft is provided as an aid to evaluate what Nassau County has offered and consider those offerings in the context of Executive Order 203 and the needs of the community as contemplated by that Executive Order.

Topic 1: Department Staffing and Recruitment

The Nassau County Police Department does not reflect the diversity of Nassau County. As of January 2016, 91% of its sworn personnel were men, and 82% were white. Conversely, 37% of Nassau County residents are people of color. This disparity is particularly stark amongst department leadership. As an initial matter, the Nassau County Reform Plan does not acknowledge any disparity. In any event, Nassau County does not propose a single reform to its department staffing and recruitment efforts. Instead, the plan recommits the NCPD to existing efforts to reach out to underrepresented communities and notes that it has established a mentoring program to match applicants with NCPD mentors.

The Nassau County Reform Plan must include reforms to the NCPD recruitment, staffing, and promotion policies. The plan must forcefully address barriers that prevent underrepresented communities from joining the department. For example, the NCPD should offer free police and civilian exam preparatory courses and, crucially, acknowledge past harms that have deterred people of color from seeking opportunities with the NCPD. Moreover, the culture of the NCPD must become more inclusive so that sworn officers and civilians of color remain with the force. Additionally, the Police Commissioner must make hiring and promotion decisions over which they have discretion such that all new hires and promotions are proportionate to the demographic diversity of Nassau County.

Topic 2: Training

The entire Police Reform Plan devotes only two bullet points regarding NCPD Academy-Recruit Training. The report reiterates that NCPD recruits receive 699 hours of training and 400 hours of supplemental training. This is insufficient. Academy training hours should be boosted, and police training must remain ongoing throughout the career of a police officer as set forth more fully in the People's Plan.

Police training in Finland and Norway requires that officers in both countries attend three-year police universities and leave with degrees that are equivalent to a bachelor's degree. The three years of study include the role of police in society and ethics, student shadowing training of officers, and completing a thesis paper. This type of training, which instills public confidence in law enforcement, is completely missing from current NCPD training protocols and must be included as part of the Plan.

The specific subsections pertaining to use of force and vehicle stop training are also deficient. Use of force training at the recruitment stage does not define what an "appropriate amount of force" is and leaves it as a subjective standard, rather than an objective one. It instructs recruits as to what they can do, rather than what they should do. Vehicle stop training does not address police professionalism and courtesy, such as making polite requests that elicit cooperation. Required training should include the use of calm police behavior and the avoidance of hostility or aggression in order to avoid escalation of a police-civilian interaction.

The Procedural Justice and Implicit Bias sections, once again, only repeat what is currently being done concerning Recruit Training. Part of this training must include education about past police department misconduct and should involve community members relaying their own experiences to new recruits. Eight hours of de-escalation training in which many topics must be covered are inadequate. Repeated and regularly scheduled sessions of de-escalation training will result in a change in police culture. Once again, community-based involvement and consultation are required for training to be effective.

Topic 3: Use of Force

Law enforcement policies and procedures regarding the use of force are critical in combating police brutality, preventing law enforcement killings, and in building trust and positive interactions between police officers and community members. Nassau County's Police Reform Plan regarding law enforcement use of force falls short of providing substantive reforms as it only contains minimal changes to the Department's existing policies and procedures which were developed without community input.

The Department states in its report that force is authorized to effect a lawful arrest or detention, to prevent the escape of a person from custody, or in defense of one's self or another. The reform plan describes the standard for the use of lethal force by law enforcement officers as the following: "A Member of the Department is only justified in using deadly force when it is to protect him / herself or another person from what the member reasonably believes is an imminent threat of serious physical injury or death, or to stop a fleeing suspect where:

1. the member has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury
2. and the member reasonably believes that the suspect poses an imminent threat of serious physical injury to the Member or to others."

Although these limitations are welcome, they should include a further limitation that force only be used as a last resort and only after de-escalation tactics are attempted. Moreover, Nassau County police officers are provided just nineteen hours of training concerning appropriate use of force. The Department should mandate extensive and recurrent use of force training, paired with de-escalation training, as set forth more fully in the People's Plan.

The Department's report states that members of the Department who witness another member using force that he / she believes to be "clearly beyond what is objectively reasonable are duty-bound to intervene to prevent the use of unreasonable force if and when he / she has a realistic opportunity to prevent harm." The Department's standard for when an officer is required to intervene will likely encourage officers to be reluctant to intervene, as such a standard is both a high standard and ambiguous. The Department should, with community input, release clearer standards and guidelines regarding when an officer is duty-bound to intervene, permitted to intervene or required to report that they witnessed unlawful or excessive use of force by another member of the Department. Intervention training should be incorporated into use of force training.

A police officer's use of force should be tracked and reported on, at least a semi-annual basis, and made accessible to the public, and at the least, at semi-annual public hearings of the public safety committee of the legislature. The Department states in their report that they conducted an internal audit of their Use of Force Guide. The Department's Use of Force Guide should have external input and should be reviewed by community members and stakeholders. Additionally, there must be substantial community involvement on the Deadly Use of Force Review Board. This is necessary to ensure accountability of officers who wrongfully and unlawfully subject individuals to physical and, or lethal force. Furthermore, the Department's Police Reform plan does not adequately provide for policies and procedures guiding discipline against officers who violate the standards for use of force and should also address standards and consequences for less than lethal use of force categories and use of weapons, including tasers, batons, etc. The Department's plan must be strengthened for substantive progress to be made on this issue and to foster greater trust between police officers and community members.

Topic 4: Body Cameras

Nassau County's body camera plan is hardly a plan at all. Rather than formulating a plan, based on years of police use of body cameras in several jurisdictions, federal guidelines, and studies on the use of body cameras, Nassau hired a politically connected consulting firm at a cost of $121,250 to advise the police department on the use of body cameras. Nassau's "plan," is simply a way to literally and figuratively pass the buck, and involves an outside consultant, who is un-elected, who will be making policy recommendations. The police reform plan should publicly share information about this consultant firm, their background, expertise, board of directors if applicable and list of their other clients for full-disclsoure of possible conflicts of interest.

Nassau County need look no further than New York City for guidance on rolling out a body camera plan. That plan was launched in April 2017. By August 2019, each of the 24,000 members of the NYPD was equipped with a body camera. An analysis of the use of body worn cameras by NYPD personnel is available at the NYPD Monitor Website. The most recent report, issued in December of 2020, noted that "[t]he study showed that deployment of body-worn cameras was associated with a statistically significant decrease in CCRB complaints and a statistically significant increase in the number of stop reports..." Significantly the report noted that despite this reduction in civilian complaints, the number of arrests, summonses, domestic violence incident reports, and citizen-initiated crime complaints was not reduced because of the body-camera usage.

Nassau County should review both the NYPD guidelines as well as those promulgated by the ACLU in adopting their body camera policies and procedures. The NYPD guidelines should be a floor, not a ceiling. For instance, while the NYPD Program requires an officer to enable their camera and record when they intend to execute or are executing an arrest, the officer however has discretion in initiating a recording if there is merely an investigatory stop. We recommended that an officer be required to enable their camera any time there is a civilian encounter, consistent with ACLU recommendations relating to privacy concerns—be it investigatory, a traffic stop or any other interaction with a civilian while performing their duties. We also recommend that the NCPD issue body cameras as part of the officer's required uniform.

Topic 5: Car Stops

The issue of traffic stops and associated data was the topic of much discussion during meetings with community stakeholders. A PACT member who attended CCT meetings expressed his concerns regarding vehicle stops by saying they are "not only … the single most frequent interaction that people on Long Island have with the police but it is vulnerable to discrimination both actual and implied." It is evident from our collaboration with the community, that this topic is of utmost importance to our residents. Accordingly, this section is dedicated to the issue.

While Nassau's proposal for reforming police initiated Traffic Stops succeeds in recognizing that traffic stops are "not only…the single most frequent interaction that people on Long Island have with the police but it is vulnerable to discrimination both actual and implied," the County's plan falls short of fixing that problem. First, Nassau County must record and collect demographic data for traffic stops, similar to that collected in Suffolk County. While the Suffolk County Police Department collects and maintains demographic data because of a court ordered Settlement Agreement, nothing prevented Nassau from collecting and analyzing this data on its own initiative or voluntarily seeking external review.

Additionally, the County should commit to eliminating pretextual car stops based on alleged Vehicle and Traffic Law violations. Although such stops are constitutional, they are susceptible to discriminatory enforcement. For example, people of color are more likely to be stopped relative to white drivers, especially during daytime hours, when officers can more easily ascertain a driver's race through visual observation. On Long Island, these disparities are exacerbated by a class of individuals carrying "PBA Cards" that allow them to avoid receiving a ticket for a traffic violation. Nassau County should end stops for minor violations such as a broken license plate light, or objects dangling from a rearview mirror, exhaust noise or excessive window tint where such stops are mere pretexts. It should also prohibit its officers from distributing unethical and highly problematic PBA Cards.

It is beyond dispute that car stops by police are extremely dangerous — both to the officers and the motorists and the passengers. Police officers are killed during roadside traffic stops when other drivers collide with them or their vehicles. Prohibiting police officers from enforcing pretextual minor vehicle and traffic law infractions will not only reduce community mistrust but will make officers more safe and allow police resources to be shifted to other more pressing needs.

Topic 6: Procedural Justice, Systemic Racial Bias, Racial Justice in Policing

The Nassau County Police Department continues to laud itself and reference implemented policies claimed to impact systemic racism all without ever acknowledging that systemic racism exists within the Nassau County Police Department. This section is pockmarked with reminders that the Nassau County Police Department has rules on the books to prevent officers from engaging in racial profiling, require them to respect individual dignity and prevent officers from inquiring about the immigration status of crime victims, witnesses, or anyone approaching an officer for help. What is woefully missing in this writing is any mention of the statistics showing the racial disparities that exist in Nassau County policing. The community cannot heal unless the police department acknowledges racial disparities in policing and commits to doing better.

After committing to do better, the Nassau County Police Department must follow through. There is no mention of what, if any, punishment officers who continue to participate in discriminatory practices face. There is no mention of how the police department will transform its culture to dismantle racist attitudes that are conveyed by the PBA staff through public comments and through social media. To further NCPD's disassociation with systemic racism, or in an attempt to further justify its means, NCPD cites as an example of progress against 'Systemic Racial Bias and Racial Justice in Policing' that "Community Representatives have expressed concerns over members of minority communities being incarcerated for petty offenses simply because" they are poor, while white individuals arrested for the same crimes, make bail and go home. NCPD's report states that "[T]his issue has been addressed in large part by the recent bail reform legislation" and that NCPD has declared that officers now issue appearance tickets for marijuana offenses at the place of occurrence.

First, in a section dedicated to bias, to broadly cite and equate 'minority' people to poverty and marijuana and then contrast with 'non-minority communities' and lack of poverty is a facially discriminatory reinforcement of stereotypes. Secondly and crucial to any conversation regarding systemic racism, there is no contrast and no statistical analysis regarding the disproportionate initial contact and arrest rates of non-white individuals to white individuals for the same crimes and offenses. One such glaring example can be found in the language used on page nine (9) of the County's document dealing with traffic stops, which reads:

> *"Types of traffic stops are for traffic or criminal offenses, high risk situations, or potential investigative stops that are initiated when there is reasonable suspicion that a felony or penal misdemeanor is being committed, has been committed, or is about to be committed. None of these situations are every initiated based on race, gender, ethnic origin, age, sexual orientation, religion, or financial status."* (Emphasis added)

Needless to say, this statement is totally devoid of any sense of reality and does not comport with the live experience of Nassau County residents in their interactions with police officers.

The Nassau County Reform plan must acknowledge there are racial disparities in its policing. These disparities must not be allowed to remain in the "that goes without saying" category. The plan must contain accurate statistics and statistical analysis to identify the disparities which exist. Once the disparities are identified, the NCPD must understand systemic racism is not limited to codified policies without enforcement and there must be an effective punishment for all who continue to perpetuate racist practices and a cultural transformation to prevent such perpetuation.

Topic 7: Implicit Bias

The Nassau County plan discusses Implicit Bias training. Although the plan correctly recognizes that understanding cultural differences may have a positive impact on police-community relations, it then pivots to making sure that an officer's actions are not "perceived" negatively by a community. We do not need to change how communities perceive NCPD members, we need NCPD officers to confront their own implicit biases so that their behavior towards diverse communities within Nassau County is not untoward.

NCPD is hoping to address implicit bias by adding new curriculum to its department training. NCPD should also incorporate professional trainers from outside the police department. Current training videos, reviewed on the Nassau County website, leave room for substantial improvement. These videos do not help NCPD officers understand the definition of bias and the way it seeps into their job performance. It does not offer ways of removing it. There does not seem to be a skillful way of explaining how it can be harmful to the department and how it must be counteracted, whether by practice, discipline or termination.

The impact of NCPD implicit bias training must be measured for effectiveness. Research by Joshua Correll, an associate professor of psychology at the University of Colorado Boulder, is illustrative. Professor Correll completed a study at the New York Police Department that allowed researchers to track the effects of mandatory implicit bias training as it was implemented in 2018. That research revealed that one-shot implicit bias training does not actually dispel bias, immediately begins to be forgotten and, according to New York police officer feedback, is not actually used on the job. Accordingly, implicit bias training mut be ongoing and must include outside professionals with relevant background. Moreover, the NCPD should measure the effectiveness of training over time.

Topic 8: Hate Crimes

The Nassau County Reform Plan does not acknowledge any issue with how the NCPD responds to, investigates, or follows up on hate crimes in Nassau County. The plan does not propose a single reform, not even superficially, to its hate crime policies and procedures. The plan merely lists their current policies and procedures, only acknowledging and glazing over the fact there may exist discrepancies in the number of hate / bias crimes documented by the NCPD and the community. Even in this instance, the plan only restates the current practice of utilizing their community affairs department to build relationships and trust with communities, ignoring the massive elephant in the room: the enormous magnitude of police violence and bias experienced daily in communities of color across Nassau County.

NCPD does not describe how they respond to or document hate incidents (vs. hate / bias crimes). Hate incidents do not involve criminal behavior but may provide significant evidence of bias motivation in subsequent criminal cases. Thus, hate incidents are an essential part of the hate crime landscape to be identified and responded to as a serious matter. The NCPD must implement a system to respond to and document bias incidents the same as hate / bias crimes.

The report downplays the critical importance of the discrepancies between the number of reported cases versus actual cases of hate / bias crimes. The real-life impact fear plays in the public's willingness to report crimes cannot be ignored. Employing a handful of officers into communities of color to "play nice" with those communities' residents is simplistic and endangers the public's safety. The fear and mistrust of law enforcement are grounded in authentic incidents of police abuse, neglect, and violence. They cannot expect to put a band-aid over an open wound and hope to solve the problem of

under-reporting of hate / bias crimes by the marginalized, victimized populations.

The NCPD should create a formal system where the police department partners with community-based organizations and experts that work with the populations which are usually the victims of these hate / bias incidents and crimes (i.e., LGBTQ, immigrants, people of color, religious minorities) to respond to these types of calls. These partnerships would increase the number of cases reported and improve the community's satisfaction in handling claims. Additional considerations include victim confidentiality, mental health history (prior trauma), and cultural sensitivity factors that impact the police departments' ability to respond to this type of offense appropriately and are more effectively handled in partnership with community experts.

Topic 9: De-Escalation Training and Practices

De-escalation techniques are a standard part of many police department trainings, and it is commendable that such techniques are in Nassau County's plan. De-escalation has been shown to prevent violence, enhance safety for both officers and civilians, and save lives. However, Commissioner Ryder's reform plan would only require 8 hours of de-escalation training for new recruits. This is insufficient. By comparison, officers nationwide receive much more training in firearms use and tactical training: 58 hours of firearms training and 49 hours of defensive tactical training on average.

In order to be effective, de-escalation training must be thorough and ongoing. We recommend that the NCPD implement the Police Executive Research Forum's (PERF) Integrating Communications, Assessment and Tactics (ICAT) training and require 24 hours of de-escalation training with field simulations and role plays. Although the PERF site lists Nassau County as having used its ICAT training, it does not appear to be in the current plan. Police trainers in Nassau County should keep abreast regularly of the latest de-escalation best practices.

Moreover, de-escalation training cannot be a stand-alone fix. It must be connected to the NCPD's use of force policy. It should also be connected to rigorous oversight procedures, including a monitored body camera policy. The NCPD says it evaluates officers' use or non-use of de-escalation, but what are these evaluation procedures? What are the consequences for officers that fail to use de-escalation strategies? How are officers tested on their comprehension of the concepts? Again, we recommend field simulations to test comprehension of the principles.

Topic 10: Law Enforcement Assisted Diversion

Police reform is incomplete without providing alternatives to entering the criminal justice system with its adverse consequence of incarceration and the permanency of a criminal record. The traditional approach of arrest and punishment fails to address the root causes of crime, such as addiction, mental health issues, homelessness, and failures to resolve conflicts. Pre and post arrest diversion courts, community courts and peacemaking courts successfully offer a way for individuals to avoid the burden of having a criminal record, being saddled with heavy fines and incarceration. These solutions are set forth in greater detail in the People's Plan.

The Nassau County Police Reform Proposal fails to offer any meaningful mechanism to avoid entering the criminal justice system. It mentions their bullying program, bias crime training and drug awareness and prevention programs as examples of their commitment to law enforcement assisted diversion programs (LEADS). They also tout Operation Natalie, a NCPD program to combat opioid addiction, and its Youth Police Initiative as newly formed LEADS programs. None of these programs,

though, are actually diversion programs. They educate and train the community and provide police interaction with the community. But, none of these programs serve to provide a mechanism to divert someone from being arrested, charged, placed in the criminal justice system, incarcerated and convicted. The NCPD proposal is hardly a proposal – it is merely a pat on the back for programs that already exist without offering anything new.

NCPD's proposal fails to create any crime prevention programs that resolve issues in a community before the police or criminal justice system become involved. NCPD should adopt a least harm resolution to minor crimes and infractions by issuing citations and warnings to low level offenses in lieu of arrests. NCPD should set up pre-arrest diversion courts which bypass the criminal justice system for people charged with low level misdemeanors. This provides a way out from enduring court dates, incarceration and being saddled with fines.

NCPD proposal mentions their coordination with the Nassau County District Attorney's office with their diversion program. The proposal then provides a list of the Nassau County District Attorney's diversion programs. That's the extent of their proposal for diversion programs – a mere recitation of the existing diversion programs. Their proposal does not make any recommendations of how to improve these diversion courts or review the District Attorney's policy of who they accept and reject.

Lastly, the reform plan fails to propose any diversion courts that involve the community in a meaningful way. Unlike existing Nassau County diversion courts, a Community Court takes a holistic approach by offering a participant services for all of their needs, including drug treatment, housing, continued education programs and vocational training programs. These courts work closely with the community and, in lieu of incarceration, offers an offender a path to restitution through restorative projects and other types of community service. Peacemaking Courts are another way to involve the community while diverting an offender from the traditional criminal justice system. These courts utilize community members to mediate between disputants, discuss resolutions and offer restorative justice. Unlike the NCPD proposal, these types of diversion courts offer new and meaningful ways for offenders to get out and stay out of the criminal justice system.

Topic 11: Restorative Justice

Restorative justice seeks to change an offender's behavior by educating them on the deleterious consequences that their actions have on the community and the victim. The purpose of justice is to restore the victim, the community, and the offender so that they all may be integrated back into and enhance the community.

One of the most glaring shortcomings of Nassau County's Police Reform plan was immediately evident in the Review section of the topic section and its lack of focus on how the County addresses reformative justice practices with offenders of crime. They begin by stating, "Restorative justice seeks to change an offender's behavior by educating him / her on the deleterious consequences that his / her actions have on the community and the victim." Yet, the remaining bullets describe the ways they work and provide support for the victims of crime, not offenders. By their definition, restorative policing practices' primary goal is to address offenders' behavior through a process that de-emphasizes law enforcement's typical carceral approach. The method currently in place focuses on the work done with victims of domestic violence and sexual abuse with the Safe Center. While this is excellent support, it ignores the core goal and value of restorative justice work by foregoing the same work that needs to happen with offenders of crime.

The County plan then, in their attempt at "recognition of offender rights and avoiding the tendency towards incarceration-minded policing," describes how they now issue Appearance Tickets instead of incarceration. But issuing appearance tickets is not restorative justice and, although it helps avoid incarceration, subjects offenders to financial setbacks, the loss of employment, and substantial court fees. Restorative justice resolves an offenders conduct outside of the criminal justice system and provides him or her a chance to make their victim whole. Appearance tickets have nothing to do with that objective.

Lastly, the County again sums up this topic section by failing to describe any new, innovative, community-minded practices they plan to adopt. They regurgitate their current, law enforcement-lensed practices. Instead, the NCPD should be collaborating with community-based organizations that specialize in restorative practice work, namely with offenders, and not try to lead these efforts from a law enforcement perspective. By partnering with organizations and groups with specific expertise and close ties to the community's offenders live in, we can ensure the most appropriate and effective methods are being utilized, that members of the public have full confidence in the purpose / intentions of the services and together can offer holistic restorative practice services.

Topic 12: Community-Based Outreach and Conflict Resolution

The NCPD's proposal identifies several existing community outreach programs, such as the Nassau County Police department community Affairs Unit (CAU) and the Community Oriented Police Enforcement Unit (COPE). These programs have an emphasis on working on "goals against crime." In particular, COPE uses crime data and information to focus policing on high frequency offenders and locations. The NCPD fails to recognize that these are the very types of programs that led to excessive and aggressive policing that cause mistrust between communities of color and the police. Designating a particular area as a "high crime area" to justify more policing is what led to the police arresting Black and People of Color 5.3 times more than whites. The NCPD needs to address and acknowledge that these are the types of programs that are misused to exacerbate racial disparity.

The NCPD cites the Commissioner's Community Council (CCC) as another example of their community outreach designed with the goal to "reinforce trust and appreciation for our diverse population" and demonstrate police support. NCPD does not describe with specificity who represents the "community" on the CCC, COPE or CAU, how often do these committees meet, or even where they meet. What exactly do these committees even do to reinforce trust and appreciation? To be effective, community outreach programs need members of the community that reflect the racial, gender, socio-economic and age diversity of the community. These committees should also be open to public forums to allow members of the public to discuss their concerns about policing in their community. Meetings should also not be held at precincts, but instead at community centers. These committees also need to address the mistrust members of the community have with the police, and these committees need to inform the public how to file complaints of police misconduct.

NCPD's proposal acknowledges that the police need to engage in an open dialogue with at-risk youth. They point to their expansion of Police Athletic Leagues and the Youth Police Initiative programs as mechanisms to build trust between the NCPD and at-risk youth. While these programs have the laudable goal of bringing together at-risk and NCPD in a constructive manner, this proposal does not go far enough to address the needs of youth at risk and how to eliminate aggressive police tactics which stigmatize youth and contribute to the school-to-prison pipeline. In particular, NCPD must eliminate the use of school resource officers (SROS), which contribute to aggressive policing tactics and excessive

arrests against students of color. Communities and school districts should instead replace SROs with a team of trained community intervention workers, behavior specialists, school aides, counselors and other support staff to address safety concerns and resolve conflicts.

Topic 13: Problem-Oriented and Hot Spot Policing

Identification of the Problem:

This section of the Police Reform Plan beautifully illustrates why the very articulation of Public Safety through the myopic lens of 'Police Reform' is not sufficient, and indeed is damaging. It further illustrates that allowing the Police department to be the sole author of its own reform is counterproductive and replicates the existing power structures.

The Nassau County Police Reform Plan spends much time discussing how it works with communities to develop customized plans and strategies to address a community's law enforcement problems. However, this review does not provide case studies or actually disclose the range of strategies the NCPD employs. In any event, these customized plans and strategies should incorporate many of the alternatives to heavy-handed law enforcement that are proposed throughout the People's Plan.

The plan also discusses how it assists communities experiencing a rise in crime by deploying surveillance technology, increased patrols, and traffic enforcement. Although this strategy may temporarily reduce crime by incarcerating offenders, it does not prevent recidivism or, as discussed extensively in The People's Plan, address the conditions underlying criminal behavior.

The plan's proposed reforms fare no better, as Nassau County does not actually offer any, and instead relies on "innovations" that have been in place, according to the plan, since 2002. Another opportunity missed.

Issues specifically relating to Problem-Oriented Policing/Hot Spot Policing are outlined below:

"Problem" Identifications

A reading of the Department of Justice COPS publication, which describes Problem-Oriented and Hot-Spot policing in detail and describes identification of a problem as follows:

> *"A problem is a recurring set of related harmful events in a community that members of the public expect the police to address. This definition draws attention to the six required elements of a problem: community, harm, expectation, events, recurrence, and similarity."*[1]

These elements are captured by the acronym CHEERS.

This section of the DOJ/COPS report describes how, "Some problems are first reported as involving illegal behavior, but on closer inspection do not involve illegalities. If such reports meet all the CHEERS criteria, they are problems. Some members of the community must expect the police to address the causes of the harm (their numbers do not have to be large). Expectation should never be presumed but must be evident through processes such as citizen calls, community meetings, press reports, or other

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[1] Ronald V. Clarke, John E. Eck, "Crime Analysis for Problem Solvers in 60 Small Steps," cops.usdoj.gov, U.S. Department of Justice, Office of Community Oriented Policing Services, revised 2016, https://cops.usdoj.gov/RIC/Publications/cops-w0047-pub.pdf (Section 14)

[2] Ibid

means. This element does not require the police to accept at face value the public's definition of the problem, their idea of its causes, or what should be done about it. The public may be mistaken as to its cause and characteristics. It is the role of analysis to uncover the causes."[2]

From these sections alone, we can see how police are able to identify problems that are not illegal, but can still come under the purview of a policing problem to be solved. Further, the idea that the complaints need not come from large segments of the population is problematic and that 'processes' for identifying a problem includes calls, community meetings and press reports illustrates exactly how dominant, power-holding voices and narratives steer police activity.

Culture and Articulation

In Section 8 of the DOJ COPS report, "environmental criminology", we find a discussion of something called the Problem Analysis Triangle, developed by John Eck and William Spelman, using Wolf, Duck and Den terminology, stating "Repeat offending problems involve offenders attacking different targets at different places. These are ravenous WOLF problems."[3]

It is clear from this wording that the articulation of human beings as wolves contributes to a dehumanization that allows for the very violence this reform plan is attempting to mitigate. The continuation of this philosophy in training and practice is not only counterproductive, but disqualifying of any attempt to gain public trust.

Wholistic Approach to Public Safety v. Police Silo

The DOJ COPs philosophy, which Nassau County bases its Hot-Spot and Problem-Oriented policing on is based on, what they refer to as Crime Science, which they acknowledge is "…radical departure from the usual ways of thinking about and responding to the problem of crime and security in society. Crime Science is about crime. Traditional criminological approaches are concerned largely with criminality, focusing on distant causes such as poverty, social disadvantage, parenting practices, and school performance. In contrast, crime scientists are concerned with near causes of crime."[4]

The continued adherence to Crime Science as the exclusive lens from which to view public safety locates the law enforcement agency at the center of the definition of public safety. This negates any possibility of a broader definition, which in turn, blocks solutions, and subsequent resource allocation to the wider societal issues that can address root and systemic issues for communities meant to benefit from this reform program. This in itself, disqualifies this proposal and these practices.

The Problem-Oriented policing (POP) model requires evidence-based data collection in order to identify problem areas per the crime science philosophy, which includes building relationships with community members. The need to cultivate these community relationships is to create investment and collaboration with the community on problem-solving crime opportunities. In addition to the fact that this strategy locks out a broader definition of public safety, this relationship-building, really for the purpose of collecting intelligence and data about the community, makes the community complicit in their own surveillance.

Tactical Concerns (not comprehensive)

On page 37 of the Police Reform plan, the plan states that, "the NCPD Homeland Security Unit and POP officers work closely with all fifty six school districts, particularly involving matters of student

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[3] Ibid, Section 8
[4] Ibid, Section 8

discipline."

The presence of any law enforcement in schools immediately provides the potentiality of criminalizing children's behavior and feeding the school-to-prison-immigration-pipeline. The presence of a federal level police is particularly heinous as federal law enforcement has technologies and resources at its disposal to be used against childhood behavior, which should be addressed using restorative justice practices, not crime science philosophy. Additionally, this deployment of resources and cooperation by school districts exacerbates an already unjust and heavily weighted power-dynamic against children and their parents. Educators should not be engaging in this level of injustice.

Evidence and prediction: the plan makes reference to evidence-based predictions concerning the deployment of resources into 'hot-spot' areas where crime is expected to occur, including deployment of electronic signage (which it does not describe), vehicle and traffic law enforcement, and the use of Automatic License Plate readers. These tactics suggest casting a wide net conjuring fishing expeditions. The cycle of heavy resource allocation to 'find' hot-spots, followed by use of that evidence to justify more resource allocation is clearly an internal self-justify logic cycle that justifies the continued over-policing of certain neighborhoods.

Topic 14: Focused Deterrence

New York State's guidance to Executive Order 203 defines "focused deterrence" as a strategy whereby officers engage directly with offenders or groups of offenders based on their prior history, sometimes in partnership with community members. The purpose of focused deterrence is to alter the opportunities for crime in order to deter motivated offenders. NCPD has stated that one of the ways in which they are participating in focused deterrence is through the Gang Resistance Education and Training program that is instructed by a law enforcement officer. The focus is to help students develop life skills and avoid using "delinquent behavior and violence to solve problems." This program, while laudable, is not focused deterrence because it does not help offenders or individuals at risk of offending change their circumstances to avoid committing crime.

NCPD's plan to modify an already existing program, that has little to do with focused deterrence, is to further identify known offenders for each precinct and to designate them as top offenders for their jurisdiction. Yet the reform plan does not describe how NCPD will reach "known offenders" to curb their conduct or deter them from re-offending by offering opportunities such as employment, camaraderie and safety. Most repeat offenders have difficulty finding jobs because they have been tagged as criminals. The need to provide, to make up for time lost through incarceration and not being able to do so forces offenders to use tools that they already know. The best way to start focused deterrence is to begin before a person is released by teaching them a useful trade, budgeting tools and other ways to earn an income. The Center for Court Innovations in NYC has several programs that assist in helping offenders recognize the patterns that they are engaging in and finding other ways to not become repeat offenders.

Topic 15: Crime Prevention through Environmental Design

Public areas, when properly designed and effectively used, can reduce incidents of crime. Public resources need to be used to lighten dark and remote areas and reduce opportunities for offenders to hide out of view. The Nassau County Reform Plan does not actually suggest how the environment can

be changed to limit crime or acknowledge that it will have to work with communities to make those changes. We believe that the police and communities should work together to revitalize public areas to make them green, reduce crime, and increase foot traffic.

Topic 16: Violence Prevention and Reduction Strategies

The Violence Prevention section of the Nassau County Reform Plan is a crime prevention model based on short term approaches. A deeper approach which takes into account the science of criminology and social conditions of poverty such as that detailed by Tim Hope in Community Crime Prevention, Crime and Justice, vol. 19, 1995, pp. 21–89. JSTOR, www.jstor.org/stable/1147595, is recommended.

Police policy should not be purely reactive and based on its ability to track information, target known criminals and buy back guns. Although these approaches may be a component of crime prevention policy, we recommend that NCPD look more at the deeper science of community safety and involve residents in determining safety priorities. Examples in other locales include community outreach teams, made up of residents and in some cases ex-offenders, to reach out to youth at risk of becoming crime-involved. This approach uses credible messengers to reach community members where they are. Traditional programs suggested by the reform plan, such as using police to mentor youth, do not encompass this community-centered approach, which uses individuals more trusted by vulnerable residents.

The Center for American Progress (CAP), an independent nonpartisan policy institute, has done a great deal of study around the issue of community safety. A report it issued recommended some basic changes which we ask the NCPD to explore. They are the creation of:

1. a dedicated civilian office of public safety within the jurisdiction (in this case Nassau County) government structure
2. a permanent pathway for community members to participate in the development of jurisdiction's public safety agenda and priorities
3. a budgetary mechanism that gives residents direct control over investments in community needs.

More often than not, cities conduct one-off community engagement efforts such as town hall meetings or surveys, without considering a long-term strategy for ongoing partnership with and accountability to the community. The challenge of engagement is particularly acute among communities affected by over policing and public disinvestment, where distrust in government can reduce residents' willingness to participate in traditional civic engagement opportunities. The net result is that public safety policies typically reflect the views of elected officials and policymakers, rather than the priorities of the people most affected by violence.

There are many examples across the country of these new takes on public safety and the establishment of a civilian office of public safety as official parts of county government. Techniques such as violence interruption and transformative mentoring, which do not rely on law enforcement, have proven records of success. We strongly recommend that Nassau County adopt these forward-thinking strategies in its approach to community safety.

Topic 17: Model Policies and Standards Review

Nassau County residents need to have confidence that the NCPD has a robust process in place to review policies and procedures that may cause harm to or exacerbate tensions with various Nassau County communities. The Nassau County Reform Plan does not actually propose reforms to its policy review process. Instead, it purports to provide a cursory review of those procedures that leave more questions than provides answers.

The Reform Plan provides, "[i]n cases where policies or procedures are determined to be outdated or deficient, IAU recommends review by the Procedure Development Unit of the Professional Standards Bureau." However, it does not elucidate as to how or by whom a "case" is "determined" to be "outdated or deficient". Moreover, what policies and procedures are being considered for review? How long are potentially deficient policies being permitted to govern police conduct before they are changed? Is the public engaged in reviewing these outdated policies? Answers to these questions can be extremely helpful in revamping and restructuring systems that have been harmful to some Nassau County communities. Moreover, the NCPD should be proactively updating its policies and procedures and not be waiting for a catalyst event, such as a death, wrongful conviction, or severe beating, to trigger review. **Waiting for a harm to trigger review of bad policies is not reform. It is repair.**

The Reform Plan further provides that the NCPD has "entered into a Participation Agreement with New York State Division of Criminal Justice Services" to allow its "policies, procedures and standards" to be "reviewed by this independent agency to ensure their policies, procedures and standards are up to date with the latest policing models." Although independent review of NCPD policies is welcome, however belated, it cannot serve as an excuse that would prevent the NCPD from proactively reviewing and reforming its policies. In other words, "independent review" cannot serve as an excuse for indefinite delay of reforms.

Topic 18: Complaint Tracking

Nassau County residents do not trust that their complaints against police officers for misconduct will be evaluated fairly. This is unsurprising. Over the past five years, out of 318 complaints classified by the Nassau County Police Department's Internal Affair Bureau as involving allegations of excessive force, unlawful conduct, false arrest, neglect of duty and racial bias, only 36 resulted in a finding that misconduct occurred. For those cases where there was a finding of misconduct, Nassau County has not disclosed what, if any, discipline followed. Given that Nassau County residents do not trust the Internal Affairs Bureau process, it is little wonder why so few complaints are filed.

We welcome the County's proposed reforms that would allow complainants to attach video or other evidence along with their submission of a complaint and to access complaint forms in a variety of languages. However, these reforms fall far short and leave the foxes guarding the henhouse. Nassau County must adopt a Civilian Complaint Review Board as an independent, nonpartisan and professional agency with authority to investigate allegations of misconduct by the NCPD. Legislation establishing the same is attached to the People's Plan. A CCRB comprised of members representing the diversity of Nassau County would build trust with the community by ensuring that complaints are investigated thoroughly and transparently. It would strengthen the NCPD by holding "bad apples" accountable for their misconduct. Importantly, it would serve as a generator of data that would help root out discrimination or identify communities where police misconduct is most pervasive. A CCRB would be a win for the community and police department alike.

Topic 19: 911 Dispatch and Communications Bureau

This section begins with a review of the 2019 alleged number of calls for service of 405,000. It then reports as to 55% of the calls by dividing them into four categories. There is no mention as to the remaining 45% of the calls and does not provide details as to what those calls were for or their level of police involvement. While referencing the NCPD Communications Bureau, there is no explanation or description of the NCPD Communications Bureau as to its function, staffing or scope of services provided to the people of the County of Nassau.

This section then goes on to explain that police respond "to any and all requests for assistance." As examples this section talks about lifting "an elderly individual. . . from the floor to the bed" and "an issue with another neighbor." Contrary to any discussion of reform, the intent to avoid making any change is best confirmed by this section stating, "there is no assignment that is too big or small for the NCPD."

Nassau County proposes a nonresponse addition to their crisis response model, including using a civilian-run Mobile Crisis Team. Behavioral Health professionals would be sent out in pairs to address Nassau County residents' noncriminal, nonviolent mental health needs. The County also calls for nondescript training additions to recruits of the police department and 911 call takers. In addition to this proposal, we recommend that Nassau County integrate the Mobile Crisis Unit into the 911 response system. This integration would allow the Mobile Crisis Unit to be dispatched directly to noncriminal, nonviolent calls without the need for a referral from a third party. A direct communication line would increase response times for the Mobile Crisis Unit and reduce unneeded police involvement, conserving resources. The Communications Bureau should integrate mental health professionals into their call taking process. Mental Health Professionals could assist with training other 911 dispatchers and be available to take calls for which a 911 dispatcher without a mental health background may not be qualified. Plans for the aforementioned can be found in the "Alternate Crisis Response" section of the People's Plan.

Topic 20: Mental Health and Homelessness

Nassau County should hire mental health professionals at an increased pay rate, given the expansion in responsibilities and on-call hours demanded by these proposed reforms. The increasing rate of pay would work to mitigate high rates of turnover within these positions.

The Nassau County Reform Plan proposes creating a stabilization hub, much like the current structure in Suffolk County, operated under Family Service League's DASH program. This stabilization hub should be contracted through the existing Mental Health Urgent Cares by expanding them to 24/7 centers. The Nassau County plan, however, fails to detail any means to collect data, provide transparency of this collected data, as well as any benchmarks for program evaluation. We assert that these be incorporated into the program proposal, as they are vital to future iterations' success. The proposed program also does not provide any information about the ESU & Hostage Negotiation Team's training and qualification in crises. We urge that Nassau County incorporate mental health professionals into the formulation of these details, as the perspective gained from this profession is key to positive outcomes in the field. More detailed information on the aforementioned can be found in the following sections of the People's Plan: "Alternate Crisis Response" and "Officer Wellness & Safety."

Topic 21: Crowd Control

The Nassau County Reform plan regarding crowd control does not include any substantive reforms to past or existing crowd control policies. The plan contains minimal information and detail. This is disappointing. At many of the protests that occurred nationwide in the wake of George Floyd's death, peaceful protestors were subjected to violence, threats, kidnapping, the use of tear gas, rubber bullets, monitoring, and other unnecessary wrongful actions by various members of police departments. In fact, Attorney General Letitia James is suing the New York City Police Department for these reasons.

The Nassau County Police Department should affirmatively mandate that violence of any manner will not be used against peaceful protestors, including when officers are attempting to conduct crowd control. Peaceful protest is a constitutional right that should not be infringed upon by law enforcement officers. Police officers and law enforcement officials should collaborate with community members and organizers who are asserting their constitutional right to peacefully protest. Furthermore, racial profiling, protestor intelligence gathering, and retaliatory actions should be condemned and prohibited.

Topic 22: Officer Wellbeing

The Nassau County Reform Plan has failed to adequately address the items presented in the guidance to Executive Order 203 pertaining to officer wellbeing. NCPD has indicated that it "is committed to supporting and promoting the physical, emotional, and mental wellness of the men and women of the NCPD." Although the plan has many good components, its plan isn't cohesive. The plan doesn't outline the mental health issues police officers face and how it can negatively impact policing. As we have pointed out in the past and will continue to do so -- an officer's mental and physical health affects the quality of policing in the communities they serve. Last year highlighted how important it is to have a well-adjusted police force serving the community, especially communities of color.

One of the most important ways to address mental health challenges among officers is to increase awareness, promote education, and identify the existing barriers that prevent officers from getting the treatment they need. Research has identified four barriers that impact access to mental health services: inability of an officer to identify when they were experiencing a mental illness; concerns regarding confidentiality; belief that psychologists were unable to relate to their occupation; and the notion that officers who seek mental health services may be unfit for duty. Implementing annual mental health check-ups for all officers and civilian staff is one way to address mental health in a setting that officers feel comfortable in. Nothing in their reform plan directly addresses any of these challenges or provides benchmarks to improve. Removing the stigma attached to officers seeking assistance with mental and behavioral health is important and missing from the NCPD reform plan.

NCPD has indicated that it is promoting the health and wellness of its officers by creating the Office of Health and Welfare and its Wellness Committee. The Office of Health and Welfare was created in 2019 by the Nassau County legislature and its function is not clearly discussed in the reform plan. The Nassau County legislature created the office because nationwide statistics showed an increase in officer suicides and the need for mental health assistance for officers. The focus of the office was intended to be on suicide prevention. The office was also supposed to have a mental health action plan that would be reevaluated yearly; no action plan was mentioned. The office website lists limited resources (where some links don't work or just connect to an email) and no events or training(s) are available. Moreover, in the reform plan, NCPD says "the stress level of an Officer could be correlated with the length of a shift." This denial of a clearly articulated problem for officers isn't supporting their wellbeing. It has been acknowledged that the length of shifts, back-to-back shifts and overtime cause fatigue and sleep

disorders for officers.

In the reform plan, they also mention that the NCPD created a Wellness Committee in 2018 and its role is "to coordinate the efforts of the Employee Assistance Office and Peer Support Group." The committee includes various members of the police department network, but lacks any community representatives or independent members, such as mental health professionals. While the Wellness Committee hosts "health-related voluntary seminars and training sessions." The key word is that they are voluntary seminars. The only post on the Wellness Committee Facebook page is from February 26, 2020. The one online event we found was offered by United We OM, Yoga and Meditation for Law Enforcement taught by a Glen Cove Police Officer in partnership with the NCPD. The online classes were "open to all Law Enforcement, sworn, civilian, active and retired, and immediate family."

Further, the NCPD identified their use of "the Nassau Cares Application on all departmental phones'' as an effort to effectively address mental health challenges by police officers by providing resources for them. However, according to the website https://www.pdcn.org/376/Nassau-CARES Nassau C.A.R.E.S. is a smartphone app for residents to easily access resources related to mental health. This is a resource for Nassau County residents or police officers to use for residents. It was not specifically created for the use of police officers. They also don't adequately address the stigma attached to seeking help, even after a traumatic event. To simply say that, "[t]raumatic events are covered by the Nassau County Police Department Peer Support Team who respond to scenes and / or hospitals and other locations as needed" is not sufficient. Further they state in the plan that, "[a]t times, officers can be mandated to Employee Assistance by supervisors," but never state the circumstances when they are mandated to do so.

NCPD should provide a comprehensive strategic plan to support officer wellness. The strategic plan should identify the mental health challenges that NCPD officers are having (COVID-19 deaths, community mistrust), review present department policy and procedures, provide updated training and review all department resources for its personnel. The services NCPD offers should be tailored to the needs of the officers and staff. Future training for new and current officers should include curriculum that has been reviewed by independent mental health professionals, social workers and community representatives. NCPD should include in their standards of conduct or department policies and procedures that each officer who has experienced a traumatic event be required to speak to a mental health professional. For example, in the Standards of Conduct, Rule 3. Fitness of Duty, an officer should not be able to self-identify whether he/she is mentally or physically unfit for duty or to carry a firearm. If NCPD is unable to compile a strategic plan on its own, it should consider seeking assistance to do so. They could consult the CRI-TAC Collaborative Reform Initiative of the Department of Justice's (DOJ) Community Oriented Policing Service (COPS) Office. Everyone must come together to create a police department that serves the entire community.

Topic 23: Transparency

This section is perhaps the most troubling. Nassau County's review of its existing efforts at transparency contain a multitude of misrepresentations, falsehoods, as well as inadequate and incomplete reforms that were developed without sufficient community input. For example, while the Nassau County Reform Plan avers that it strives to make known its policies and objectives, Nassau County does not even make its annual patrol guide available online – which is routine in other departments. Further, the section on racial profile (Exhibit K at 1) states that "[d]iscretion is at the core of a police officer's job." This statement undercuts, if not completely eviscerates, any import or efficacy that this section could have. When it comes to "racial profiling" there is no discretion, only discrimination. Additionally, this section

and the reform as a whole provide no indication of what discipline and accountability there will be for such discriminatory conduct – racial profiling; what reporting to the DA's office, what internal review and reprimand will occur, and most importantly how the Department will review its stops and arrest data to that discrimination does not continue to occur. Although NCPD data gathering is inept and skewed, it reflects significant racial disparity.

The reform plan commits to publishing more data on incidents of use of force and adjusting its decision-making framework utilized in circumstances involving the use of force. Although this is welcome, the NCPD should first acknowledge that its data reporting has been insufficient. Moreover, changes to its decision-making framework for use of force policy should be made with community input and after an honest conversation with the community about us of force incidents that have taken place.

The reform plan commits to making more robust disclosure regarding civilian complaints. Although this data will undoubtedly shed light on the need for reform, Nassau County should think critically about the inadequacies of its current civilian complaint process. In that effort, we refer you to the Civilian Complaint Review Board legislation contained in the People's Plan.

Current civilian complaint data is incredible and unsupported by actual case history, complaint accounts and data. The purported Reporting Data indicates that for the years 2016, 2017, 2018, 2019, and 2020, 0% of the complaints were for Excessive Force, 0% were for Racial Ethnic Bias, and 0% were for false arrest. This is particularly disturbing given that the more recently published 2020 Use of Force Reporting and Findings acknowledges that 85.2% of the Use of Force Circumstances resulted in arrest. It seems unlikely that there would be so few complaints, but for the fact that the existing complaint process is inaccessible.

The County's current major crime statistics reveal yet more racial disparity that has not been addressed in its reform plan. The Arrest Data chart reflects that Blacks make up 35% of the arrests in the County for 2019 and yet Blacks make up 10.1 % of the population, while whites, who make up 65.5% of the population also make up 35% of the arrests. Nassau County's data already demonstrates racially disproportionate arrests, publishing the same does nothing to reform, transform, or identify root causes for the same.

NCPD states that it is "values community input and [thus it] released the new in-service training lesson plan" however, the "new in-service training plan" indicates that it was prepared on July 30, 2020 – before any of the stakeholder meetings took place and before the EO 203 guidance was even released. Even further troubling, this "new" in-service training indicates in the Procedural Justice Section that the "2014" PERF report should be used, "show them that legitimacy, through service, is the way". This demonstrates the failure to change what is broken by returning to 2014 reports and by relying on training created before the guidance to Executive Order 203 was distributed. The County's failure to wait for this guidance before developing its in-service training, that is recycled training, is demonstrative of its failure to transform and reform.

Conclusion

It bears noting that the NCPD Reform Plan states that Nassau County "engaged in a collaborative effort with community stakeholders through several different forums", naming the Police and Community Trust initiative (PACT), the Community Collaborative Task Force (CCT), the hosting of town halls, and the Commissioner's Community Council (CCC). It then prematurely released this reform plan without consulting those stakeholders. **That decision broke our trust.** We submit to you the People's Plan for your consideration.

Transforming Crisis Response

Creating a Community Responder Model to Address Mental Health Crises, Substance Abuse, and Houselessness on LI

Section Summary

In response to Governor Cuomo's Executive Order to reform police departments, the following is asked: **Should you deploy social service personnel instead of or in addition to police officers in some situations?**[1] The report urges communities to reflect on this question when addressing mental health crises, substance abuse, and houselessness.

Individuals with mental illness, behavioral health problems, and housing insecurity[2] and persons of color are overrepresented in both the criminal justice system and in deadly encounters with law enforcement.[3] According to the 2017 Bureau of Justice Statistics Report, 37% of prisoners and 44% of jail inmates had been diagnosed with a mental disorder.[4] The entangling of behavioral health problems and law enforcement makes it difficult for people with mental health issues, substance use problems, and challenges related to poverty to get adequate treatment and support and places a large burden on the criminal justice system.[5]

In this proposal, the Community Crises workgroup, a collaboration of members from the coalition, Long Island United to Transform Policing and Community Safety (LI United) and New York Social Action (NYSA) provides research on the ways in which a community can implement safer and more effective responses to behavioral health and other crises. Over the last few months, activists in the LI United/NYSA workgroup, including those with backgrounds in social work and psychology, have researched existing models throughout the country that offer non-violent, restorative approaches to behavioral health and houselessness emergencies. The model we are proposing for Long Island incorporates reforms achieved in various programs throughout the country. As a result of our research, this workgroup recommends implementing a health-centered approach to addressing mental health crises, substance abuse, and houselessness in Nassau and Suffolk County. This Alternate Crisis Response model is composed of the following 4 components:

1. **911 Call Center**: implementation of five strategic reforms that ensure call-takers are equipped to holistically assess callers in crisis
2. **First Responders:** creation of Behavioral Health responder teams composed of clinicalprofessionals, trained peer specialists, and unarmed crisis responders
3. **Criteria-Based Dispatched Response**: creation of a 3-tiered response system that dispatches the appropriate first responder to match the level of risk posed by the individual in crisis to themself/other

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[1] "NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens," August 2020. https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf

[2] "Overlooked in the Undercounted - Treatment Advocacy Center," accessed January 27, 2021, https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf

[3] Prison Policy Initiative, "Race and Ethnicity," Prison Policy Initiative, accessed January 27, 2021, https://www.prisonpolicy.org/research/race_and_ethnicity/

[4] "Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12," accessed January 27, 2021, https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5946

[5] Swanson, Jeffrey & Frisman, Linda & Robertson, Allison & Lin, Hsiu-Ju & Trestman, Robert & Shelton, Deborah & Parr, Kathryn & Rodis, Eleni & Buchanan, Alec & Swartz, Marvin. (2013). Costs of Criminal Justice Involvement Among Persons With Serious Mental Illness in Connecticut. Psychiatric services (Washington, D.C.). 64. 10.1176/appi.ps.002212012

4. **Data Collection and Transparency**: collection and reporting of comprehensive, publicly available data on all 911 calls, including # of calls received, how calls are coded, which calls receive crisis response, which response is made, and the outcome of the response

Here are just a few benefits that will be achieved through these reforms:

1. Supportive interactions to community members facing mental health crises, substance abuse problems, and challenges related to poverty
2. Linkages to effective and timely support services and treatment options for community members experiencing a behavioral health crises
3. Increased police efficiency through reduction of time spent by police responding to non-criminal matters
4. Cost savings to Long Island taxpayers
5. Improved community-police relations through greater data transparency
6. An end to the criminalization of mental illness, substance abuse, and houselessness
7. Reduction of traumatic confrontations with police that often lead to arrest and/or inpatient hospitalizations
8. Reduction of costly incarceration and further harm to individuals in need of treatment and support
9. Reduction of harmful cycles of recidivism

For all of these reasons and more, reforms to community crisis responses are **popular with American voters.** A 2020 report from the Justice Collaborative Institute and Data for Progress found that 68 percent of likely voters polled support the creation of non-law enforcement emergency responder programs, 70 percent support a non-police response for when a family member calls 911 because of a mental health crisis, and 65 percent support a non-police response to a drug overdose.[6]

County legislators need not invent new systems when these best practices exist. Family Service League's Diagnostic, Assessment, and Stabilization Hub (DASH) and Mobile Crisis Team and Nassau County's Mobile Crisis Unit are vital strengths in Long Island's crisis response infrastructure. We urge legislators to replicate models that serve community members with the dignity and care they deserve when they are experiencing a behavioral health care emergency. Though Governor Cuomo's executive order to submit plans for reform is due in April, LI United and New York Social Action will continue to work with Nassau and Suffolk Counties to push for reforms and provide evidence-based research to create a more humane and anti-racist public safety system.

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[6] Justin Levinson & Dawn Milam, "Building Community Based Emergency Response Systems," June 18, 2020. https://tjcinstitute.com/research/building-community-based-emergency-response-systems/

The Case for Expanding Our Crisis Response System

After decades of divestment from community-based services for people with behavioral health problems, criminal justice agencies have become the de-facto first responders and treatment providers for community members with mental illness and substance use problems.[7] According to the 2017 Bureau of Justice Statistics Report, 37% of prisoners and 44% of jail inmates had been diagnosed with a mental disorder.[8] An estimated 65% of those incarcerated in the U.S. have an active substance use disorder[9] and people experiencing houselessness are 11 times more likely to be incarcerated than the general population.[10] It is well-established that people with behavioral health and social service problems, including those with mental health issues, substance use disorders, and/or housing instability account for a significant number of 911 calls and police encounters in the community.[11]

This intersection of behavioral health problems, poverty, and law enforcement are often referred to as the ***criminalization of mental illness*** and the ***criminalization of poverty.*** When people with mental health issues, substance use problems, and challenges related to poverty (such as houselessness) become entangled in the criminal justice system, it puts them at greater risk, creates barriers to adequate treatment and support, and places the responsibility and expense of care on a system designed for other purposes.[12]

When symptoms of mental illness and intoxication are present during encounters with police, communication between the community member in crisis and law enforcement officers can break down and signs of distress can be read by officers as threatening. People with trauma histories, particularly those who live in neighborhoods highly targeted for surveillance by police, are more likely to display hostility in police encounters.[13] This can lead to escalation by police which, in turn, further agitates the person in crisis, increasing the danger of the situation for both the community member and the officers. Research has found that people with co-occurring mental health and substance use disorders are more likely to be perceived as resistant during police interactions and are, therefore, more likely to have force used against them.[14] While interactions with police serve as a pathway to treatment for some mentally ill and substance-using people, others lead to avoidable arrests, traumatizing involuntary hospitalizations, or worse.[15]

In the worst case scenarios, community members with behavioral health problems are shot and killed

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[7] Nicholas Turner, Erica Bryant and Jackson Beck, "First Do No Harm," Vera Institute of Justice, December 8, 2020, https://www.vera.org/publications/first-do-no-harm

[8] "Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12," Bureau of Justice Statistics (BJS), accessed January 27, 2021, https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5946

[9] "PSYCH 424 Blog," Applied Social Psychology ASP RSS, accessed January 27, 2021, https://sites.psu.edu/aspsy/category/uncategorized/page/8/

[10] TCR Staff et al., "The Revolving Door Between Homelessness and Prison," The Crime Report, February 27, 2019, https://thecrimereport.org/2019/02/22/homeless-formerly-incarcerated-more-likely-to-be-incarcerated-study/

[11] Jackson Beck, Leah Pope, Two Sigma Data Clinic, and Nicholas Turner, "Understanding Police Enforcement," Vera Institute of Justice, May 28, 2020, https://www.vera.org/publications/understanding-police-enforcement-911-analysis

[12] Allison G Robertson, Hsiu-Ju Lin, "Costs of Criminal Justice Involvement Among Persons With Serious Mental Illness in Connecticut," *Psychiatric services (Washington, D.C.)* March 2013, https://www.researchgate.net/publication/236048488_Costs_of_Criminal_Justice_Involvement_Among_Persons_With_Serious_Mental_Illness_in_Connecticut

[13] Briana Mezuk Lena J. Jäggi, "The Relationship between Trauma, Arrest, and Incarceration History among Black Americans: Findings from the National Survey of American Life" SAGE Journals, April 25, 2016, https://journals.sagepub.com/doi/pdf/10.1177/2156869316641730

[14] Melissa S. Morabito et al., "The Nature and Extent of Police Use of Force in Encounters with People with Behavioral Health Disorders," *International Journal of Law and Psychiatry*, Pergamon, October 28, 2016, https://www.sciencedirect.com/science/article/pii/S0160252716300929?casa_token=j73W3w92f- kAAAAA%3AEAp_ZuGWoebC5E2iyU2KMqG7TpdMw5QWKOq67Uk_Jk-JDX6YCnCS1evDPWaBE13pTtX0NwRNE28

[15] James D. Livingston et al., "Contact Between Police and People With Mental Disorders: A Review of Rates," Psychiatric Services, April 15, 2016, https://ps.psychiatryonline.org/doi/full/10.1176/appi.ps.201500312

by police. **People with untreated mental illness are more than *16* times more likely to be killed during a police encounter than other civilians.**[16] In addition to the devastating effects these deaths have on families and communities, they may also deter people from calling 911 when they or someone they care about is in crisis. Yet few other options exist, creating the risk that crises worsen before community members get the help they need.

Houselessness and housing insecurity greatly increase the risk that a person will have interactions with police and face arrest for low-level offenses like loitering or sleeping in public places. Conversely, people who have been incarcerated are more likely to experience unstable housing. This leaves many marginalized people, and particularly people of color, trapped in a cycle of criminal justice involvement and housing insecurity, unable to pay fines or make bail and struggling to find employment and stable housing.[17] Further, people with serious mental health problems are more likely to also experience housing insecurity, poverty, and co-occurring substance use disorders, illustrating the degree to which behavioral health and poverty are intertwined.[18]

The impact of criminal justice involvement and behavioral health problems is compounded by race. Black Americans are 20% more likely to experience serious mental health problems than the general population and experience poverty at more than twice the rate of white Americans.[19] Added to these vulnerabilities are longstanding tensions between Black communities and the police, which have resulted in low levels of trust in law enforcement among Black people as compared to white people.[20] Data show that Black men overall are more likely to be stopped by police, more likely to be arrested, and more likely to be subject to excessive and deadly force.[21] A recent study found that Black men displaying signs of mental illness are more likely to be killed than white men showing similar behaviors.[22]

The current system of criminalizing behavioral health problems and houselessness does not work for citizens or for law enforcement. People with mental health problems report distrust of police officers[23] and numerous studies have found that law enforcement officers experience stress and inadequate knowledge and training with regard to people with mental health problems.[24]

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[16] "Overlooked in the Undercounted - Treatment Advocacy Center," accessed January 27, 2021, https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf

[17] "Five Charts That Explain the Homelessness-Jail Cycle-and How to Break It," Urban Institute, September 16, 2020, https://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it

[18] Alene Kennedy-Hendricks et al., "Improving Access To Care And Reducing Involvement In The Criminal Justice System For People With Mental Illness: Health Affairs Journal," *Health Affairs*, June 1, 2016, https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2016.0006

[19] US Census Bureau, "Poverty Rates for Selected Detailed Race & Hispanic Groups: 2007-2011," The United States Census Bureau, January 11, 2021, https://www.census.gov/library/publications/2013/acs/acsbr11-17.html

[20] Danyelle Solomon, "The Intersection of Policing and Race," Center for American Progress, September 1, 2016, www.americanprogress.org/issues/race/reports/2016/09/01/143357/the-intersection-of-policing-and-race/

[21] Kara Manke, "Stark Racial Bias Revealed in Police Killings of Older, Mentally Ill, Unarmed Black Men," *Berkeley News*, October 6, 2020, https://news.berkeley.edu/2020/10/05/stark-racial-bias-revealed-in-police-killings-of-older-mentally-ill-unarmed-black-men/

[22] ibid.

[23] Melissa; Kahn Thompson, "Mental Health, Race, and Police Contact: Intersections of Risk and Trust in the Police, Policing: An International Journal," DeepDyve (Emerald Group Publishing Limited, November 21, 2016), https://www.deepdyve.com/lp/emerald-publishing/mental-health-race-and-police-contact-intersections-of-risk-and-trust-A2v7f94pu9

[24] Stuart DM Thomas, Joel W Godfredson, "Police Perceptions of Their Encounters with Individuals Experiencing Mental Illness: A Victorian Survey," SAGE Journals, August 18, 2011, https://journals.sagepub.com/doi/full/10.1177/0004865811405138?casa_token=P4hjkMxCS3YAAAAA%3ATOQyZ72GwoHxJOxx7YUX1owYh_keFXkR91V-l7K7s7TFDTx2JiAy9vMUR9WmhiV_gefAOmwXSfoG0Q; Laura Oxburgh et al., "Police Officers' Perceptions and Experiences with Mentally Disordered Suspects," *International Journal of Law and Psychiatry* Pergamon, October 20, 2016, https://www.sciencedirect.com/science/article/pii/S0160252715300224?casa_token=5Fr_Y2YwMs0AAAAA%3A0QYLs-JY0Gon9J21c91OQ-Kxuz3btIZlevDht_t5bKsruUchbv1XX8gTFtAWYEWNJxY7Cthf3sY

Furthermore, the current approach is expensive. Individuals with serious mental illness are more likely to be incarcerated than hospitalized[25] and with the annual cost of incarcerating people with serious mental illness in New York state prisons at over $500 million, taxpayers carry a heavy burden.[26] Diverting people with serious mental illness from incarceration and hospitalization to community-based treatment options, such as Assisted Outpatient Treatment (AOT), offer the most cost-savings, with one New York State study finding that they cut costs in half compared to inpatient hospitalizations.[27]

These estimates do not include the cost of police hours spent responding to non-violent behavioral health emergencies and low-level offenses related to houselessness in the community. A national survey found that an estimated 21% of total law enforcement staff time was spent responding to and transporting individuals with mental health problems.[28]

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[25] Mark Meier, "New National Survey Reveals The Immense Costs Borne By Law Enforcement In Responding To And Transporting People With Mental Illness," Treatment Advocacy Center, accessed January 30, 2021, https://www.treatmentadvocacycenter.org/press-releases/new-national-survey-reveals-the-immense-costs-borne-by-law-enforcement-in-responding-to-and-transporting-people-with-mental-illness

[26] "Keck-Schaeffer Initiative for Population Health Policy," USC Schaeffer, accessed January 30, 2021, https://healthpolicy.usc.edu/article-project/keck-schaeffer-initiative-for-population-health/

[27] "AOT Cuts Costs," Mental Illness Policy Org, January 23, 2019, https://mentalillnesspolicy.org/aot/aot-cuts-costs-in-half.html

[28] Mark Meier, "New National Survey Reveals The Immense Costs Borne By Law Enforcement In Responding To And Transporting People With Mental Illness," Treatment Advocacy Center, accessed January 30, 2021, https://www.treatmentadvocacycenter.org/press-releases/new-national-survey-reveals-the-immense-costs-borne-by-law-enforcement-in-responding-to-and-transporting-people-with-mental-illness

How Does This Problem Impact the Lives of Long Island Community Members?

An estimated 77,000 Long Island residents experienced co-occurring diagnoses of mental health and substance abuse in 2017, and one in five Long Island families had a member with mental health or substance abuse concerns.[29] Long Island Coalition for the Homeless has identified almost 10,000 houseless individuals and families across Long Island, with their services extending across both Nassau and Suffolk counties.[30] Our vulnerable community members are desperately seeking services and deserve policies and programs that help them achieve self-sufficiency.

As in all jurisdictions, police on Long Island regularly have contact with people with mental illness, behavioral health and poverty related problems. Nassau County officials have failed to make any data on police encounters or 911 calls publicly available, making it impossible for LI United, NYSA, and others in the community to understand the extent and nature of Nassau PD's interactions with its community members. In July 2020, Nassau County legislators voted to convene a commission "to study new ways for police to handle encounters with mentally ill people, including embedding mental health professionals with police officers as they respond to mental health distress calls"[31] and to investigate the possibility of creating a mental health unit, staffed with behavioral health workers, within the Nassau County Police Department. The plan released by the commission includes some recommendations for reforms that this workgroup supports, including training 911 call takers to assess for presence of behavioral health crisis as well as the ability to transfer the call to Nassau Mobile Crisis. However, the proposed plan lacks specificity, an implementation plan, and it did not solicit input and participation from the community.

The Suffolk County Police Reform Task Force provided the public with data indicating that 19% of police responses to 911 calls are for violent crime and other "law enforcement" responses while a **"large portion" of the remaining 81% of responses involve mental health, substance use, and houselessness.**[32] While national 911 data is not uniformly collected, Suffolk County's breakdown of calls is very similar to national estimates of 911 calls.[33] The Task Force further reports that, as of Nov 30, 2020, the SCPD responded to 4,227 Mental Health Incidents, approximately 91% of which resulted in transport to Stony Brook University Hospital's Comprehensive Psychiatric Emergency Program (CPEP). A large number of 911 calls in 2020 have been made by or about a small number of individuals with mental health problems--what the mental health field refers to as "high utilizers" which consume significant SCPD resources. SCPD also collaborates with the Diagnostic Assessment Stabilization Hub (DASH) located in Hauppauge and 70% of calls from DASH to SCPD involve requests for transportation of individuals to CPEP.[34]

Members of LI United and New York Social Action are planning to conduct focus groups with Long Island community members who have had behavioral health-related contacts with police in order to collect qualitative data about their experiences and the outcomes of police interactions. These data will help us

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[29] Elinore F. McCance-Katz, "The National Survey on Drug Use and Health: 2017," SAMHSA, accessed February 16, https://www.samhsa.gov/data/sites/default/files/nsduh-ppt-09-2018.pdf

[30] "Charity: Long Island Coalition for the Homeless: New York," LICH, accessed January 30, 2021, https://www.addressthehomeless.org/.

[31] Scott Eidler, "Panel Would Study Ways for Police to Deal with the Mentally Ill," Newsday, *Newsday*, July 14, 2020, https://www.newsday.com/long-island/politics/nassau-police-mental-health-calls-1.46819214.

[32] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

[33] "The 911 Call Processing System," Vera Institute of Justice, January 25, 2019, https://www.vera.org/publications/911-call-processing-system-review-of-policing-literature

[34] Suffolk County Police Department, "Task Force Meeting #8: Mental Health Response," Suffolk County Police Reform & Reinvention Task Force: TF Meetings, December 4, 2020, page 4 https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

to understand the lived experience of those in the community who are most affected by the intersection of behavioral health and law enforcement in our region.

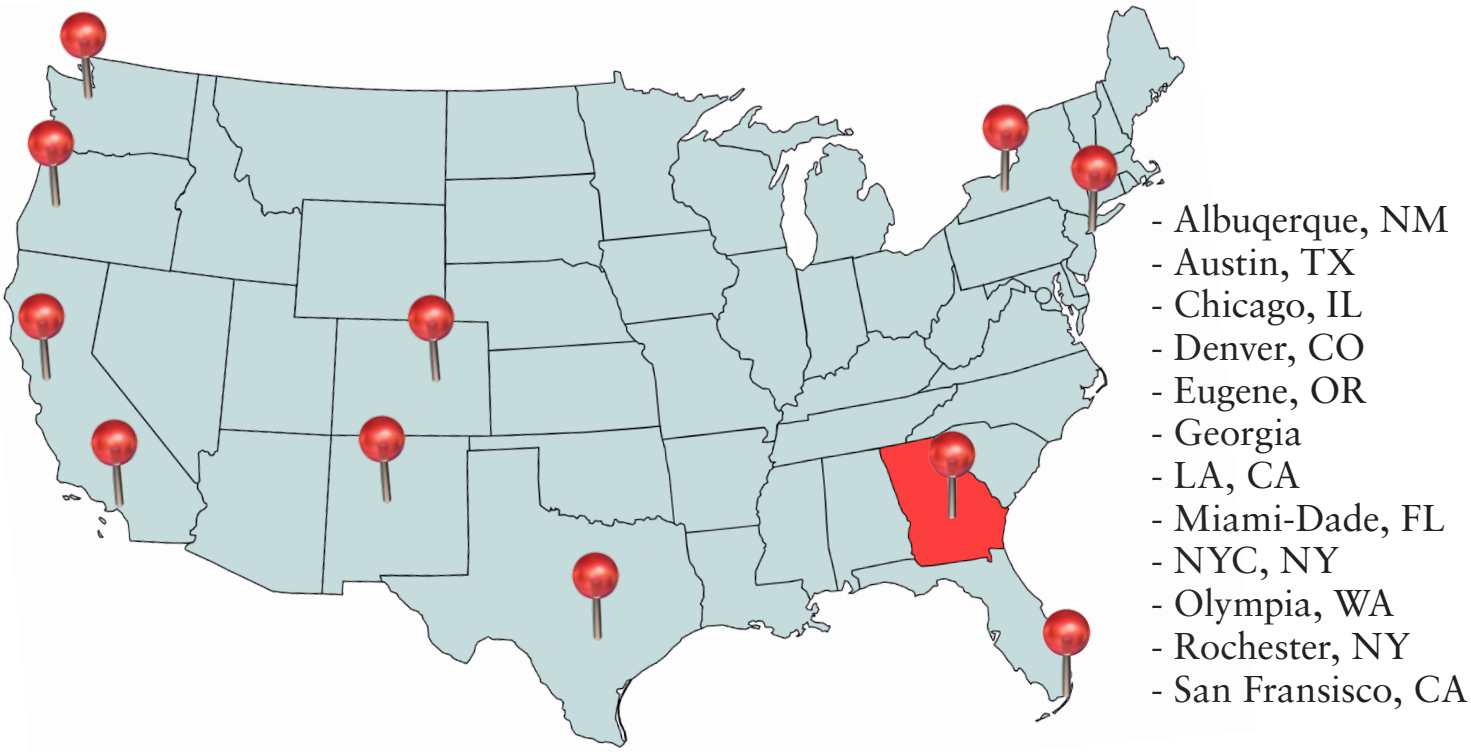
As part of his mandate that all county police departments collaborate with community members to reform policing, Governor Cuomo has issued guidance that jurisdictions consider utilizing agencies other than the police to respond to crises related to mental health and substance use.[35] The LI United / NYSA working group on Alternate Crisis Response has developed a proposal that incorporates best practices from around the country and applies them to meet the needs of Nassau and Suffolk county residents. This proposal calls for humane and socially just treatment of vulnerable people and provides concrete alternatives to the criminalization of mental illness, substance abuse, and houselessness on Long Island through effective use of public health and social service resources.

[35] "NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens," August 2020. https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf

How Are Cities Across the Nation Addressing This Problem?

A Look at Four Alternate Crisis Response Models

Throughout the country, communities have developed safe and effective programs that replace or supplement law enforcement responses to behavioral health crises with mental health and social services professionals.



The Alternate Crisis Response workgroup has conducted extensive research on these programs, including interviews with people who developed and implemented programs in Albuquerque, Austin, Denver, Eugene, Georgia, and NYC various parts of the country. We selected four models with reform components that we believe can be adapted to the unique needs of our Long Island counties. By integrating certain portions of these programs into the structure of policing on Long Island, the proven benefits, both financially and otherwise, would greatly outweigh the associated costs. More importantly, however, the proposed reforms provide the ongoing benefit of safety and support to the citizenry of the area served.

The following chart provides a breakdown of the elements of four models in the following cities/states:

- EMCOT model: Austin, Texas
- Georgia Statewide Crisis System: Georgia
- NYC Mental Health Team pilot: NYC, New York
- STAR program: Denver, Colorado

	EMCOT Austin, TX	**Georgia Statewide Crisis System**	**Mental Health Team Pilot Program** New York City	**STAR Program** Denver, CO
Population	FY19 City Pop: 978,908	FY19 State Pop: 10.52 Million	FY20: 18,804,000 Pilot will serve 2 precinct areas (TBD)	FY19 City Pop: 727,211
Service Area	Austin in Travis County	Statewide divided into 6 regions, with varying rural and urban demographics, to provide appropriate community resources.	2 high-need precincts TBD in NYC 5 boroughs.	Pilot: Large circle around Civic Center, Capitol Hill and Downtown with a long stem stretching south down Broadway. Added National Western Center.
Partnering Organizations	Integral Care: a community center and local mental health authority	Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD) in contract with 3 companies of the Georgia Collaborative Administrative Services Org (ASO)	Fire Department New York (FDNY); Emergency Medical Services (EMS) teams	Denver Mental Health Center
Launch Date	2013	2006	February 2021	2020

Continued below ↴

	Austin, TX	Georgia	NYC, NY	Denver, CO
Program Overview	Developed to co-respond with first responders to behavioral health crisis calls and divert individuals from emergency departments and arrest. Emergency Mobile Crisis Outreach Team (EMCOT) clinicians at the 911 Call Center have the ability to dispatch EMCOT to provide a community based crisis assessment, diverting police when police response is not necessary. EMCOT aims to connect individuals in crisis to community based, residential, or inpatient services. EMCOT is additive to the following Integral Care programs: MCOT, dispatched through Integral Care's Crisis line HOST team, comprised of EMS, APD and Licensed Clinician. Helps individuals experiencing houselessness with housing, case management, mental and health care and treatment	A statewide Crisis System with extensive technology and infrastructure, as well as services to treat and meet basic needs of Georgians in crisis. Georgia's Current Crisis Services System has a Behavioral Health Link providing the following: GCAL call center enables consumers to access services through one of the 6 Regional Field Offices. Mobile Crisis Response Text to Chat Line A network of more than 600 providers who deliver integrated behavioral health and developmental disabilities supports and services that are culturally sensitive to individuals and their families.	Mental Health Teams will co-respond with a health-centered and care approach to mental health emergencies, including: suicide attempts, substance misuse, and SMI. The new pilot of Mental Health Teams will provide default responders to mental health emergencies to de-escalate and reduce the number of police responses to 911 calls in 2 high need precincts. The new Mental Health Teams pilot program is additive to the pre-existing and ongoing Mobile Crisis Teams include assessment, crisis counseling and connection to ongoing services. The Teams played a role in the overall number of mental health 911 calls falling by over 8,000 in 2019	Divert low level 911 calls from police that are substance use, mental health, or social service related and link to services. STAR responders de-escalate and connect an individual in distress with appropriate services. STAR provides a broad range of no cost services such as providing information and referrals, crisis intervention, counseling, transportation solutions, and social service needs STAR has developed 911 call assessment protocol to determine appropriateness for STAR response and/or warm line transfer for further phone support. Started as a 6-month pilot program to evaluate effectiveness. Due to positive findings, City Council approved $1.395M for expansion of STAR, funded by Denver Department of Public Health and Environment (DDPHE)

	Austin, TX	Georgia	NYC, NY	Denver, CO
Service Delivery	Staff provide specialty behavioral health training to 911 call-takers and law enforcement Rotates shifts at the 911 Call Center as well as on the team of the responding clinicians diverted from 911 (field work) Up to 90 days of follow-up services to ensure treatment and support for the duration of crisis episode and linkage to ongoing services	GCAL is a statewide toll-free call center. Guidelines provide protocols to determine the level of response and whether police are to be involved and in what manner. GCAL collects data and uses the Qlarant system. Mobile Crisis Teams provide immediate on-site crisis- management and post crisis follow-up to assure linkage with recommended services. The team determines if the person requires an evaluation at an emergency receiving facility, or an outpatient appt. with a behavioral health provider in their area.	Mental Health Teams with Health Professionals will be dispatched from 911. Mobile Crisis Teams are dispatched, often by NYC Well, 24 hours a day in a day in NYC's 5 boroughs.	The STAR program operates one unmarked van staffed with a Denver Health Paramedic and a Mental Health Clinician. Primary types of calls are focused on low-risk mental health and / or substance abuse issues. STAR can also assess and triage minor medical issues that do not rise to the level of needing EMS.

	Austin, TX	Georgia	NYC, NY	Denver, CO
Response Model	When response is dispatched from 911 call center, teams consist of either two EMCOT clinician response team and/or a EMCOT staff member partnered with a EMS Community Health Paramedic (CHP).	Alternate Co-Responder Mobile Crisis Teams with Police if weapon or imminent risk of harm. Within 1 hour of dispatch one of 3 teams responds: -Mental Health -Developmental Disabilities -Assertive Community Treatment Officer Notification and Flagging System	Behavioral Health Response when non-criminal and no weapon. Co-Response: Mental Health Team and Police, if weapon or imminent risk of harm. Mobile Crisis Teams consist of EMTs and NYPD, and can include nurses, social workers, psychologists, psychiatrists, community liaisons and peers	Behavioral Health Response for non-criminal calls where no weapon is assessed to be present.
Qualifications and Training	Licensed Mental Health Professionals, Qualified Mental Health Professionals, and Psychiatric Advanced Practitioner Nurse (APN) All team members receive 480 hrs. additional training	Licensed Clinical Professionals, Law Enforcement, and a Peer Network who follow Suicide Care Best Practices with Follow-up Support.	Mental Health Team: EMS health care professional and mental health crisis worker. NYC Health + Hospitals will train and provide ongoing technical assistance and support.	Mental Health Care Denver clinician and Denver Health Paramedic

	Austin, TX	Georgia	NYC, NY	Denver, CO
Staffing	28 licensed counselors and mental health professionals	Statewide: Licensed clinicians in GCAL and as members of the Mobile Crisis Team, as well as Law Enforcement as needed.	Mental Health Teams: Health professionals and crisis workers from FDNY / EMS division	One full-time clinician from the Mental Health Center of Denver and two paramedics
Operating Hours	Operates 16 hrs/day M–F; 10 hrs/day Sat–Sun, 365 days/year	24/7/365 Georgia Crisis Access Line (GCAL) and Mobile Crisis Services	24/7	Operates 8 hrs/week, 5 days/week M–F
Budget & Funding Source	FY20 budget of $2,315,828 Jointly funded by City of Austin (60%) and Travis County (40%)[36]	FY19 DBHDD Annual Cost Lifeline Calls: $414,000 Gambling Calls: $10,000 Text/Chat: $1,416,611[37]	The annual budget of the new pilot of Mental Health Teams in 2 precincts will rely on existing resources within FDNY EMS. Mobile Crisis Teams and other related initiatives in 2019 cost $37 million.[38]	$200,000 in funding for 6 months from the Caring for Denver ballot initiative[39]

[36] Integral Care Crisis Services "Expanded Mobile Crisis Outreach Team," Austin Texas Gov., https://www.austintexas.gov/edims/document.cfm?id=302634

[37] "Access Services," Georgia Department of Behavioral Health and Developmental Disabilities, accessed February 16, 2020, https://dbhdd.georgia.gov/access-services

[38] "New York City Announces New Mental Health Teams to Respond to Mental Health Crises," The official website of the City of New York, November 10, 2020, https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises

[39] "STAR Workgroup Updates," Denver Alliance for Street Health Response, July 28, 2020, http://dashrco.org/star/

Proposal: A New Crisis Response Model for Long Island

The following is a multifaceted proposal to develop an alternative response to noncriminal emergencies received by 911 call-takers. This proposal is based on evidence-based research and interviews with existing alternative crisis response programs across the country. These programs include an array of alternative or modified emergency response systems. Common components include changes to 911 call centers, dispatcher protocols, alternative first responders to traditional law enforcement, community-focused treatment plans, and data collection and reporting. The model proposed here takes successful components of existing programs and packages them together to create an all-encompassing solution to address Long Island municipalities' specific needs.

Through this new model, Long Island will reduce the police footprint in noncriminal emergency calls and increase police efficiencies. The implementation of this model includes four components:

1. **911 Call Centers**—implementation of strategic reforms that will ensure that call-takers are equipped to holistically assess callers in crisis:
   - **a.** Implement specific training requirements and enhance the call script of 911 call-takers to elicit information specific to behavioral health crises.
   - **b.** Employ behavioral health professionals within 911 call centers, so they may be available to provide guidance in supervisory positions.
   - **c.** Cross-train various actors throughout the emergency response system, including call-takers, dispatchers, and first responders.
   - **d.** Integrate bilingual 911 dispatchers into 911 call centers.
   - **e.** Utilize an alternative emergency three digit number for nonviolent, noncriminal emergencies, that is integrated into the local 911 call systems.
2. **First Responders**: creation of a non-police alternative response to be dispatched to noncriminal emergency scenes, primarily relying on the expertise of behavioral health professionals and unarmed first responders
3. **Criteria-Based Dispatched Response**: creation of a tiered response system that dispatches the appropriate first responder to match the level of risk posed by the individual in crisis
4. **Data Collection and Transparency:** collection and reporting of comprehensive, publicly available data on all 911 calls, including which calls receive crisis response, which response is made, and the outcome of the response

Transforming Crisis Response: **Component 1**

911 Call Centers

Governor Cuomo's 2020 New York State Police Reform and Reinvention Collaborative Resources and Guide asks communities to examine the function of their community's 911 call centers, including the role and responsibilities of their 911 call-takers.[40] "Since 911 largely serves as the catalyst to police involvement in most instances, communities should consider how those calls are received, evaluated, and triaged for resolution to determine if any changes could be made to more effectively improve public safety".[41]

The Governor's Guidance directs communities to consider the following questions:

- ***Who* currently staffs your 911 call centers?**
- **Are *all* calls routed to law enforcement, fire, or EMS?**
- **Are there *other social services* that should be more fully integrated into 911 call centers and the triage process?**
- **Would call-takers need *new training* if your community wanted to shift response functions toward social services?**
- **Should 911 call centers be operated by law enforcement, other social service agencies, or a combination of agencies?**

Long Island 911 Call Centers

Traditionally, 911 is thought of as primarily used for emergency medical services. However, a significant portion of the 911 calls made every year in the United States are routed to police departments.[42]

New York State has a population of 19,849,399 and a 911 call volume of 23,048,141.[43] As of 2019, Suffolk county received 910,071 emergency calls, which were answered by their 157 call center employees.[44] Nassau County employs approximately 208 employees and receives about 800,000 911 calls per year.[45] Despite Suffolk County receiving more 911 calls than Nassau County, they employ fewer dispatchers. It was recently reported that vacancies within the Suffolk County 911 call center reached a high of 13%, putting operators at risk for burn out and backed up call logs.[46]

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[40] "NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens," August 2020. https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf

[41] ibid. 17

[42] "Understanding Police Enforcement: A Multicity 911 Analysis," Vera Institute of Justice, Sept. 2020, https://drive.google.com/file/d/1OFgQICgdKzUgM9MHD0RGilTmm3vltUOh/view

[43] "Communications Section-911 Call Center," Suffolk County, accessed Jan. 30, 2021, https://suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/911%20Call%20Center%20Data.pdf

[44] https://suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/911%20Call%20Center%20Data.pdf

[45] Rachelle Blidner, "Vacancies Rise among Suffolk Police 911 Operators," Newsday, *Newsday*, July 26, 2020, https://www.newsday.com/long-island/politics/911-operators-suffolk-nassau-covid-1.47252591

[46] ibid.

Of the total 911 calls for 2019, Suffolk County Police Department responded to over 5,000 scenes involving individuals experiencing behavioral health crises.[47] As of November 2020, SCPD had responded to over 4,000 Mental Health calls, with 90% involving the transportation of community members to psychiatric hospitals.[48] According to Nassau County's 2021 police reform draft plan, in 2019, the Nassau County Police Department received over 405,000 calls for service, of which over 95,000 included requests for ambulance transport, aided calls, and well checks.[49]

According to our research, the crisis response system involves many actors. The chain of events is first initiated by the caller who contacts the independent, locally run public service answering point (PSAP) where a call-taker answers the call. The current role of a call-taker is to determine the appropriate response for the emergency at hand—whether that be law enforcement, fire, or emergency medical services; to gather and perform a preliminary assessment of the safety of the scene at hand, and to record and relay the call type, priority level, and narrative to the first responder dispatcher. The call taker enters the pertinent information into the Computer Aided Dispatch (CAD) system, and that information is sent to the appropriate dispatcher, who then assigns officers to respond based on priority level.[50]

Takers of 911 calls are the first point of intercept for an individual calling for help; they are charged with performing the initial assessment and relaying this information to the first responders arriving on the scene. Their role in the outcome of a call is crucial. In order to ensure that call-takers are best equipped to perform this role, we provide the following recommendations.

Subcomponent 1

Implement specific training requirements and enhance the call script of 911 call-takers to elicit information specific to behavioral health crises.

Takers of 911 calls are tasked with engaging individuals and making assessments of a person's physical health and safety.[51] However, data suggests that these actors are inadequately prepared to address individuals' behavioral health needs in a crisis. Mental Health First Aid is an 8-hour training that gives call-takers the skills to recognize the signs and symptoms of behavioral health issues, such as mental illness and substance use disorders. Instituting a requirement for call-takers to be trained in this area would better prepare them to assess crises properly and relay the appropriate responders' pertinent information.

In addition to being better trained to recognize the signs and symptoms of a behavioral health crisis, call-takers should elicit specific information from callers to gain a fuller perspective of the scene at hand. Call-takers should be equipped with a call script that encompasses assessing physical health and safety and evaluating crises involving behavioral health concerns. Call-takers should gather descriptive information on the behavior of the individual in crisis, determine whether the individual appears to pose a danger to themself or others; determine whether the person currently possesses or has access to weapons; and ask the caller about the person's history of mental health or substance abuse treatment, violence, or

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[47] ibid.

[48] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

[49] Patrick J. Ryder, Laura Curran, "Police Reform," Nassau County, Jan. 2021, https://www.nassaucountyny.gov/DocumentCenter/View/31611/Draft-with-Exhibits?bidId

[50] S. Rebecca Neusteter, Megan O'Toole, Mawia Khogali, et al. "Understanding Police Enforcement: A Multiplicity 911 Analysis," Vera Institute, accessed January 30, 2021, https://drive.google.com/file/d/1OFgQICgdKzUgM9MHD0RGilTmm3vltUOh/view

[51] "The 911 Call Processing System." Vera Institute of Justice, January 25, 2019. https://www.vera.org/publications/911-call-processing-system-review-of-policing-literature

victimization.[52] This information should be gathered quickly and efficiently, and training must be provided to guide call-takers to do so. Call-takers should also be provided with a concise list of information they should inquire callers about when connecting with someone undergoing a behavioral health crisis.

The following tables are examples of the type of information call-takers should be eliciting from callers in crises, broken down by various scenarios:[53]

Suicide / Overdose Attempt

- ❑ My name is (your first and last name)
- ❑ I am calling from (Address of current location)
- ❑ **I am calling to request a Behavioral Health crisis response**
- ❑ My family member's/loved one's (name, age, phone number and address)
- ❑ He/She/They have a mental health condition. He/She/They are diagnosed with (diagnoses)
- ❑ He/She/They have attempted suicide:
  - ❑ If pills: He/She/They took (kind of pill) in the amount of (Quantity and dosage of pills) and the pills were taken at (time/date)
  - ❑ If weapon: He/She/They have (type of weapon) and it is (location of weapon)
- ❑ The last contact I had with (him/her/them) was at (time/date), by (phone or in person) and contact was made by (you or your family member/loved one)
- ❑ He/She/They live with (name of person(s) or alone)
- ❑ He/She/They have a previous history of suicide attempts and in the past has used (method used)
- ❑ He/She/They have (list of other physical or health issues)
- ❑ He/She/They are currently receiving treatment from (name of mental health provider)

Weapon: Threat to Self

- ❑ My name is (your first and last name)
- ❑ I am calling from (Address of current location)
- ❑ **I am calling to request a Behavioral Health crisis response**
- ❑ My (family member/loved one) has a mental health condition. He/She/They are diagnosed with (diagnosis)
- ❑ He/She/They are threatening (suicide/cut/OD/describe specific act) themself and has (describe weapon/pills)
- ❑ **He/She/They are NOT threatening anyone else**
- ❑ He/She/They have been on/off medications for (period of time)
- ❑ He/She/They may be on (drugs/alcohol), and have a history of using (specific drug/alcohol)
- ❑ He/She/They are currently receiving treatment from (name of mental health provider)

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[52] "Police-Mental Health Collaboration (PMHC) Toolkit," Bureau of Justice Assistance, accessed January 30, 2021, https://bja.ojp.gov/program/pmhc

[53] "911 Emergency Scripts," NAMI Glendale, accessed February 1, 2021, https://namiglendale.org/dealing-with-911/911-emergency-scripts/

Weapon: Threat to Others

- ❑ My name is (your first and last name)
- ❑ I am calling from (Address of current location)
- ❑ I am calling to request a Behavioral Health crisis response
- ❑ My (family member/loved one) has a mental health condition. He/She is diagnosed with (diagnosis)
- ❑ He/She has a (weapon type) and is threatening others by (specific behavior, including damage to property, throwing chairs, etc.)
- ❑ He/She has been on/off medications for (period of time)
- ❑ He/She may be on (drugs/alcohol), and has a history of using (specific drug/alcohol)
- ❑ He/She has a history of violence: (briefly explain)
- ❑ He/She is currently receiving treatment from (name of mental health provider)

Weapon: Threat of Violence

- ❑ My name is (your first and last name)
- ❑ I am calling from (Address of current location)
- ❑ **I am calling to request a Behavioral Health crisis response**
- ❑ My (family member/loved one) has a mental health condition. He/She/They are diagnosed with (diagnosis)
- ❑ **He/She/They do NOT have a weapon *and*** is threatening others by (describe what you see and hear that is a threat; e.g. hears voice telling him/her/them to kill all evil people)
- ❑ He/She/They have been on/off medications for (period of time)
- ❑ He/She/They may be on (drugs/alcohol), and have a history of using (specific drug/alcohol)
- ❑ He/She/They have a history of violence: (briefly explain)
- ❑ Follow dispatch instructions

NO Weapon: Gravely Disabled

- ❑ My name is (your first and last name)
- ❑ I am calling from (Address of current location)
- ❑ I am calling to request a Behavioral Health crisis response
- ❑ My family member's/loved one's (name, age, phone number and address)
- ❑ **He/She/They do NOT have a weapon and is not threatening to harm anyone,** but symptoms of his/her/their mental disorder have reached the point of Grave Disability because (specific behavior due to mental disorder):
- ❑ Inability to provide food. For example – he/she/they won't eat because he/she/they think the food is poisoned by the CIA
- ❑ Inability to provide clothing. For example – he/she/they refuse to change clothes or bathe for over two months. The smell is overpowering. This is a health hazard
- ❑ Inability to provide shelter. For example – the symptoms have become so severe that I can no longer manage him/her/them in my house. **He/She/They cannot live here until better and back on medication.** NOTE: This is difficult to say but often the strongest, best case for Grave Disability
- ❑ He/She/They have been on/off medications for (period of time)
- ❑ He/She/They may be on (drugs/alcohol), and have a history of using (specific drug/alcohol)
- ❑ He/She/They are currently receiving treatment from (name of mental health provider)

An example of a city that has successfully trained 911 call-takers to assess for behavioral health response is Denver:

- **Denver's STAR model** has created and integrated call scripts and decision tree into the 911 call centers to determine dispatch of the STAR model's non-police response. Call scripts and decision tree assess for the following: assistance needed, intoxicated person, suicidal person, welfare check, indecent exposure, unwanted/trespass, syringe disposal.[54]

Subcomponent 2

Employ behavioral health professionals within 911 call centers, so they may be available to provide guidance within a supervisory position.

Given the frequency with which callers are experiencing behavioral health crises, professionals within this area of expertise should assist on these call types. Behavioral health professionals can assist in creating a list of questions that will help call-takers and dispatchers determine if someone is experiencing the signs and symptoms of a mental illness. Licensed clinicians can also help identify and triage behavioral health crisis calls that may or may not warrant the intervention of law enforcement of emergency medical technicians.[55]

- Austin's **EMCOT program** strategically stations behavioral health professionals within their 911 call center. These professionals guide the call-takers, if needed, and can implement 911 Diversion practices to appropriate cases.[56]

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[54] "STAR Workgroup Updates," Denver Alliance for Street Health Response, July 28, 2020, http://dashrco.org/star/.

[55] "Police-Mental Health Collaboration (PMHC) Toolkit," Bureau of Justice Assistance, accessed January 30, 2021, https://bja.ojp.gov/program/pmhc

[56] "Health and Human Services Form O Consolidated Local Service Plan (CLSP) Local Mental Health Authorities and Local Behavioral Health Authorities (DRAFT)," Integral Care, June 15, 2020, https://integralcare.org/wp-content/uploads/2020/06/CLEAN-Form-O-CLSP-June-15_2020.pdf

Subcomponent 3

Cross-training throughout the crisis response system, including call-takers, dispatchers, and first responders.

Requiring that improved training be provided uniformly throughout the crisis response system will ensure that all actors have the same base level of knowledge when conducting an emergency assessment.

These specialized trainings would provide all crisis response actors with an improved understanding of the following:

- Mental disorders and their impact on individuals, families, and communities
- Signs and symptoms of mental disorders
- Stabilization and de-escalation techniques
- Community-based resources
- Trauma informed practice/ACEs
- Motivational Interviewing
- Bias Trainings

Trainers should provide sufficient opportunities for hands-on experiential learning, such as role-play and group problem-solving exercises for each of these groups.[57]

Subcomponent 4

Integrate bilingual 911 dispatchers into 911 call centers.

According to the new five-year American Community Survey data, approximately 15.6% of Suffolk County residents in 2015-2019 were foreign-born. Almost 57% of foreign-born were naturalized U.S. citizens.[58] In Nassau County, approximately 22.4% of Nassau County residents in 2015-2019 were foreign-born and 65.6% of people who were foreign-born were naturalized U.S. citizens.[59] Foreign-born residents of Suffolk County, New York, come from different parts of the world, with over 59% reporting their region of birth in Latin America. Among people at least five years old living in Suffolk County, from 2015-2019, 22.7% spoke a language other than English at home. Spanish was spoken by 14.3% of people at least five years old; 8.4% reported that they did not speak English "very well".[60] In Nassau, among people at least five years old, 28.7% spoke a language other than English at home; Spanish was spoken by 13.0% of people at least five years old, and 11.4% reported that they did not speak English "very well".[61]

Given the large number of folks who speak a language other than English in their homes, counties should employ bilingual 911 call-takers. Other areas across the United States with similar language diversity have implemented this recommendation. El Paso's jurisdiction requires its 911 operators to be bilingual in Spanish and English.[62] In the Pacific Northwest, every 911 center has a contract with an outside translation agency. They have found that the costs of translation services are much lower than hiring full-time bilingual dispatchers and call-takers to communicate with callers who speak languages other than English and Spanish.

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[57] "Police-Mental Health Collaboration (PMHC) Toolkit," Bureau of Justice Assistance, accessed January 30, 2021, https://bja.ojp.gov/program/pmhc

[58] US Census Bureau, "Narrative Profiles," 2019 Narrative Profiles | American Community Survey | US Census Bureau, accessed January 30, 2021, https://www.census.gov/acs/www/data/data-tables-and-tools/narrative-profiles/2019/report.php?geotype=county&state=36&county=103

[59] ibid.

[60] ibid.

[61] ibid.

- Georgia's statewide Georgia Crisis and Access Line (GCAL) offers telephone interpreting services to callers with limited English proficiency to ensure all individuals can communicate with a call-taker to get connected with the support they need.[63]

Subcomponent 5

Utilize an alternative emergency number for nonviolent, noncriminal crises that is integrated into the local 911 system

Beginning July 16th, 2022, callers throughout the country will be able to reach the National Suicide Prevention Hotline by dialing 988. While the Hotline has served millions of Americans since 2004, the new 988 number will be simpler and easier to remember, potentially providing more people with direct access to crisis support. The establishment of 988 will add funding and resources to support and increase the Hotline's capacity to provide services. With 988 in place, access to the lifeline will become more accessible and increase opportunities to receive help.

Several municipalities across the country have integrated an alternative 3-digit number into their 911 call system. For example:

- Georgia offers a statewide toll-free call center similar to 988 for consumers to access services, known as GCAL. This system is incorporated into Georgia's 911 calls by having police assess that the crises are behavioral health in nature and then referring the situation to GCAL. Georgia even developed access to GCAL's services via text and chat through a new app called **My GCAL**.[64]

An alternative to 911 will provide better care to callers and prevent others, such as Black Americans and members of other marginalized groups from avoiding calling for support due to a history of systemic abuse by the criminal justice system. The negative relationship between African Americans, Latinos, the LGBTQ+ community, and law enforcement has been widely studied and acknowledged in this country. One study in Baltimore revealed that residents of white, affluent areas called police at more than twice the rate of people living in predominantly minority neighborhoods.[54] Another study showed that 32% of U.S. born Latinos would prefer to inform a church or community leader of a crime than law enforcement; the number increases to 50% for foreign-born Latinos.[66]

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[62] Alexa Ura, "Demand for Bilingual 911 Services Growing," The Texas Tribune, *The Texas Tribune*, June 28, 2015, https://www.texastribune.org/2015/06/28/demand-bilingual-911-services-grows-population/

[63] "Access Services," Georgia Department of Behavioral Health and Developmental Disabilities, accessed February 16, 2020, https://dbhdd.georgia.gov/access-services

[64] Ibid.

[65] Rick Jervis, "Who are police protecting and serving? Law enforcement has history of violence against many minority groups", USA Today, *USA Today* www.usatoday.com/story/news/nation/2020/06/13/mistrust-police-minority-communities-hesitant-call-police-george-floyd/5347878002/

[66] ibid.

Transforming Crisis Response: **Component 2**

Alternative First Responders to Law Enforcement

Analysis conducted by the Center for American Progress (CAP) and the Law Enforcement Action Partnership (LEAP) examined 911 police calls for service from eight cities and found that 23 to 39% of calls were low priority or nonurgent, while only 18 to 34% of calls were life-threatening emergencies. Suffolk County Police Department Police Reform and Reinvention Collaborative reported that SC police spend 4% of their time responding to violence, including homicide, robbery, rape, and aggravated assault. Another 15% respond to "law enforcement" incidents.[67] The unnecessary dispatching of law enforcement officers to these calls is an ineffective use of public safety resources.[68]

Sending police to low-priority calls carries high societal costs. First, stretched thin by low-acuity 911 calls, police officers have less time to devote to serious crimes. Moreover, when police spend their days racing between 911 calls, officers have fewer opportunities to proactively build relationships with community members.[69]

Where police presence is unnecessary, it is more than just an ineffective use of safety resources; it can also create adverse outcomes for communities of color, individuals with behavioral health disorders and disabilities, and other groups who have been disproportionately affected by the American criminal justice system. Often, these individuals are arrested and booked into jail, which can exacerbate their medical and social service needs.[70]

Relying on police to handle low-level calls for service has other long-term consequences. Aggressive enforcement of low-level offenses and unnecessary negative police interactions affects residents' health and well-being and **erodes public trust in police**. Residents are less likely to report a crime or provide valuable information to a police force perceived as untrustworthy, making it harder for officers to prevent and solve serious crimes, including homicide.[71]

The work of first responders is fraught with numerous stressors and a wide range of complicated scenarios. Responding to behavioral health or public health crises is a lot to ask of police officers who have limited training in these areas. According to the Final Report of Task Force on 21st Century

Policing's recommendation, in May 2015, the task force recommended supporting programs that take a comprehensive and inclusive look at community-based initiatives addressing core issues such as poverty, education, and health and safety.[72] The leaders of CIT international–a group consisting primarily of police, which created CIT training 35 years ago–now argue that only a mental healthcare response is appropriate for a behavioral health crisis.[73]

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[67] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

[68] Amos Irwin and Betsy Pearl, "The Community Responder Model," Center for American Progress, accessed January 30, 2021, https://www.americanprogress.org/issues/criminal-justice/reports/2020/10/28/492492/community-responder-model/.

[69] ibid.

[70] ibid.

[71] ibid.

[72] The President's Task Force on 21st Century Policing. May 2015. https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

[73] "Our Proposal," ccitnyc.org, accessed January 30, 2021, http://www.ccitnyc.org/who-we-are/our-proposal/

Behavioral health response teams can incorporate many different types of responders. Common responders include mental health clinicians, crisis intervention specialists, paramedics and trained peer responders. Alternate crisis response models throughout the nation involve various combinations of these responders, depending on the types of calls they are responding to. In the context of houselessness, for example, research has demonstrated that trained peer responders are uniquely positioned to connect with and support houseless individuals, based on their shared experiences with housing insecurity.[74]

Across the country, we see the adoption of alternatives to the police for behavioral health crisis response. The following are just a few of the cities launching these initiatives:

- **Georgia**: Mobile Crisis team, which specializes in incidents involving the needs of those with mental health issues or developmental disabilities
- **New York City**: A pilot program, in collaboration with NYC Health and Hospital Corporation, which will rely on an EMS-based emergency response
- **Denver, Colorado**: The Denver Star Program relies on a co-response that pairs a paramedic and a mental health clinician
- **Austin, Texas**: EMCOT deploys a co-response model that pairs either two clinicians or an EMCOT staff member and an EMS Community Health Paramedic

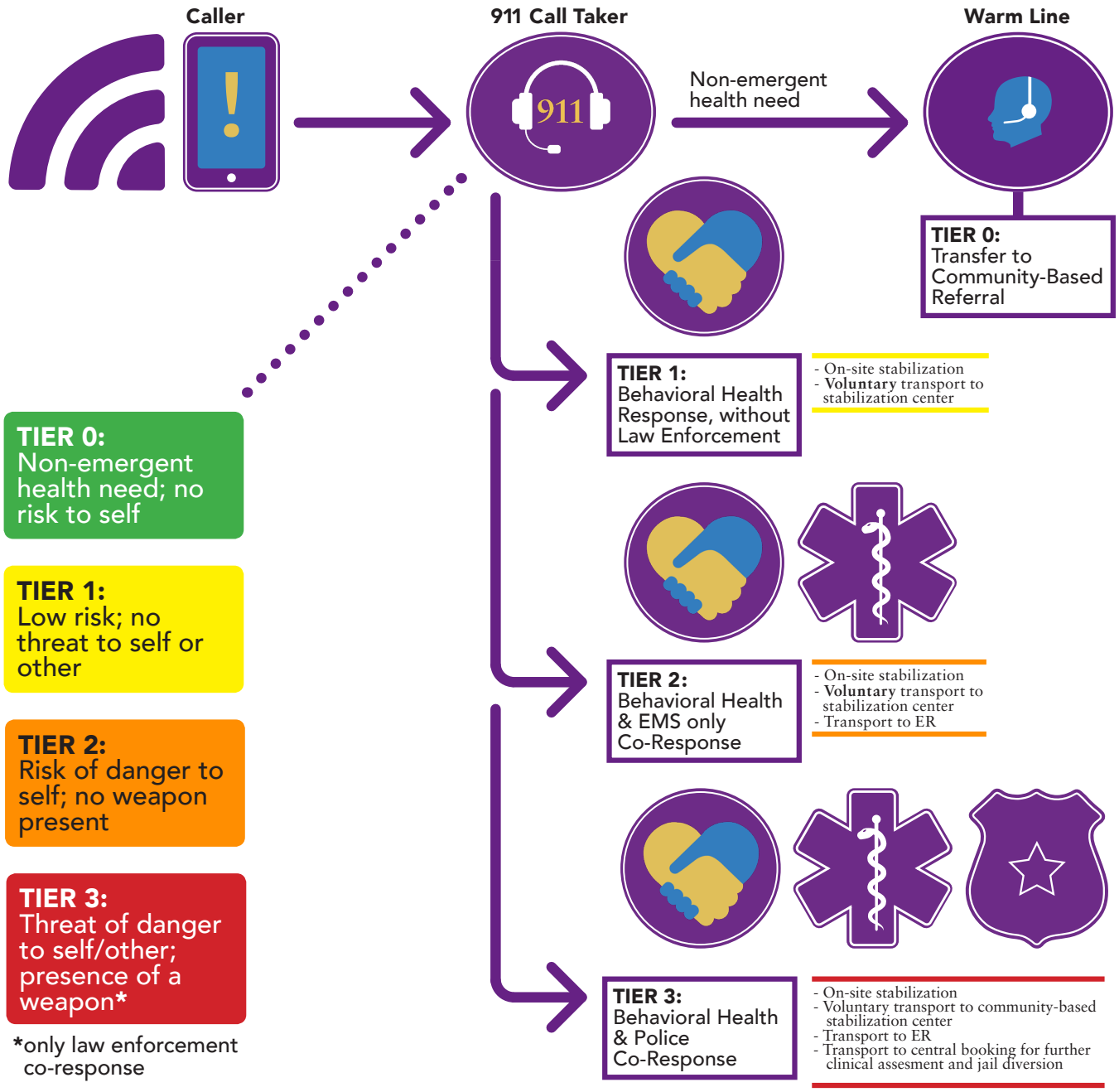
For a more comprehensive list, please revisit the table under the section titled: **How Are Cities Across the Nation Addressing this Problem? A Look at Four Alternate Crisis Response Models.**

[74]Amos Irwin and Betsy Pearl, "The Community Responder Model," Center for American Progress, accessed Jan 30, 2021, www.americanprogress.org/issues/criminal-justice/reports/2020/10/28/492492/community-responder-model/

Transforming Crisis Response: **Component 3**

Criteria-Based Dispatched Response:
A Multi-Tiered Approach

A dispatcher's role is to take the information relayed from the 911 call-takers and assign an appropriate first responder to report to the scene via CAD or radio. These assignments are based on various components, including incident priority-level, availability, and incident location. To ensure the appropriate personnel are deployed where their skills are most needed, a tiered approach to crisis response dispatching has been created so that dispatchers may properly assess a scene from the information provided and determine the appropriate responders to be sent on the call.



Tier 0

911 Diversion: Transfer to Community-Based Referral

The following is a description of a scene assessment that would warrant **Diversion Protocols by Transferring to Community-Based Crisis Referrals:**

- The caller has been assessed as experiencing a behavioral health crisis, with no immediate intervention to prevent self and others' harm.
- The caller has been assessed not to be experiencing a medical emergency of any kind, thus requiring medical personnel to be on the scene
- The caller has been assessed not to be an adverse risk to the Behavioral Health Responders' safety.
- The scene has been assessed not to contain a firearm or deadly weapon.
- The caller has no known history of violence, indicating potential harm to behavioral health respondents.

Behavioral health specialists stationed within 911 call centers are positioned to guide potential 911 diversion when appropriate. This practice is an alternative to first responders dispatched to a scene. This practice of 911 diversion allows for callers in crisis to be transferred to a community-based crisis response network. The individual in crisis may be provided with referrals for additional, more specialized assistance during the initial call.

This diversion process would reduce the number of scenes emergency responders are sent to when their services are not truly needed. A reduction in deployment will lead to municipality savings. When paired with the reform discussed in **Section 5, Subsection 1**, 911 call-takers are better trained to recognize a behavioral health crisis and begin an assessment.

Comprehensive behavioral health resource network compilation will equip call-takers with the appropriate resources to provide referrals to callers when they have determined that the caller requires community-based support rather than law enforcement. Community-based organizations, such as the Long Island Crisis Center, have already accumulated community-based resources across the Island and partnerships may allow for the sharing of these databases.

- The **Georgia model** utilizes an "air traffic control" system, which enables staff to assist individuals with non-emergent needs by offering them the choice of providers and to schedule appointments for services. Individuals are able to specify the distance they are willing to travel and the call center identifies service providers within that proximity to the individual's zip code location.[75]
- The **Austin EMCOT** program has implemented 911 call diversion into their system. Their program is co-located at the 911 Call Center and is available to receive a direct transfer of calls from 911 call-takers when a caller experiences a behavioral health crisis. Their successful effort is an example that can be mirrored in efforts to incorporate 988.[76]
- **Denver** has implemented 911 call diversion into their system. Through utilization of new call scripts that guide a comprehensive assessment, the 911 call-taker is able to determine if the call is best suited for warm line transfer for phone support to meet the current need of the caller. For warm line support, calls are transferred to Rocky Mountain Crisis Partners (RMCP).[77]

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[75] "Access Services," DBHDD, accessed February 16, 2021, https://dbhdd.georgia.gov/access-services

[76] "Health and Human Services Form O Consolidated Local Service Plan (CLSP) Local Mental Health Authorities and Local Behavioral Health Authorities (DRAFT)," Integral Care, June 15, 2020, https://integralcare.org/wp-content/uploads/2020/06/CLEAN-Form-O-CLSP-June-15_2020.pdf

[77] "STAR Workgroup Updates," Denver Alliance for Street Health Response, July 28, 2020, http://dashrco.org/star/

Tier 1

Behavioral Health Response, without Law Enforcement Involvement

The following is a description of a scene assessment that would warrant the dispatch of a **Behavioral Health Response, without initial Law Enforcement Back Up:**

- The caller has been identified as experiencing a behavioral health crisis and needs onsite stabilization
- The caller has been assessed ***not*** to be experiencing a medical emergency of any kind, thus not requiring medical personnel to be on the scene
- The caller has been assessed ***not*** to be an adverse risk to the Behavioral Health Responders and others' safety.
- The scene has been assessed ***not*** to contain a weapon of any kind

The creation of a TIER 1 emergency response acknowledges that different emergencies require differing first responders. The current Suffolk and Nassau 911 systems have no emergency response option to specifically address behavioral health crises. NYC Health Commissioner Dr. Dave A. Chokshi stated, "Expanding the role of mental health in emergency services means that people with urgent behavioral health needs can quickly get appropriate and effective help from trained health professionals."[78] Additionally, by sending Behavioral Health professionals to provide onsite stabilization to an individual in crisis, community members can avoid unnecessary interaction with law enforcement personnel, and consequently, the criminal justice system. As it currently stands in Suffolk County, when transportation to a facility is required, the presence of two officers is required on scene and the transport can take several hours to complete. An estimated 84 patrol hours were used for one individual who called SCPD over 250 times in 2020.[79] In Nassau, the situation is similar

To reduce this wasteful use of police resources and the trauma that ensues from transport in a police vehicle, the proposed model recommends that behavioral health response teams be licensed to transport community members voluntarily. The ability to transport individuals is both a cost-efficient and safe alternative that is implemented in cities throughout the nation. Transport to community-based stabilization sites and community-based resources provides immediate linkages and a warm hand-off to support and treatment services, reducing the revolving door crisis intervention cycle and instead, helping individuals to establish long-term support services from the point of crisis.[80] The legal capacity to transport community members who are experiencing a crisis also serves to remove additional responders from the interaction. The reliance specifically on community-based stabilization centers will allow for complete diversion from emergency departments, when appropriate, and will reduce costs taken on by these facilities, people in crisis, and the municipalities.

To ensure the highest level of safety, if after arriving on the scene, the behavioral health response team determines that additional support from medical personnel or law enforcement are needed, the proposed model allows for the behavioral health responder teams to contact the appropriate personnel to be dispatched

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[78] "New York City Announces New Mental Health Teams to Respond to Mental Health Crises," The official website of the City of New York, November 10, 2020, https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises

[79] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

[80] Amos Irwin and Betsy Pearl, "The Community Responder Model," Center for American Progress, accessed Jan 30, 2021, www.americanprogress.org/issues/criminal-justice/reports/2020/10/28/492492/community-responder-model/

directly to their location, utilizing the CAD system and bypassing the 911 call tree.

- The **Austin EMCOT program** utilizes a non-police response team, involving 2 clinicians to attend to noncriminal emergencies. EMCOT clinicians at the 911 Call Center have the ability to dispatch EMCOT clinicians to provide a community based crisis assessment, diverting police when police response is not necessary. If transport to a community-based stabilization site is needed, EMCOT response team transport community members in their cars to one of 4 stabilization sites, reducing the unnecessary reliance on hospital emergency rooms and unnecessary reliance on police and ambulance transport.[81]
- The **Denver STAR program** utilizes a behavioral health response made up of a Mental Health Center of Denver (MHCD) Clinician and a Denver Health Paramedic to respond to low risk mental health and/or substance use issues. The Denver 911 Communications Center triages calls and dispatches a STAR response when predetermined criteria is met. STAR teams utilize vans that are licensed to transport community members voluntarily to community-based support.[82]

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[81] "Health and Human Services Form O Consolidated Local Service Plan (CLSP) Local Mental Health Authorities and Local Behavioral Health Authorities (DRAFT)," Integral Care, June 15, 2020, https://integralcare.org/wp-content/uploads/2020/06/CLEAN-Form-O-CLSP-June-15_2020.pdf

[82] "STAR Workgroup Updates." Denver Alliance for Street Health Response, July 28, 2020. http://dashrco.org/star/

Tier 2

Behavioral Health & First Responder Co-Response

The following is a description of a scene assessment that would warrant the dispatch of a **Behavioral Health & First Responder Co-Response:**

- The caller has been identified as experiencing a behavioral health crisis, has expressed a sense of harm/danger to themselves, and needs onsite stabilization with potential transport to an emergency department for further treatment/follow up.
- The caller has been assessed to be experiencing a medical emergency, thus requiring medical personnel to be on the scene.
- These emergencies include, but are not limited to:
  - Overdose
  - Suicide attempt / expressed suicidal ideations
  - Erratic behavior due to unknown causes based on an initial cursory observation
  - The caller has been assessed ***not*** to pose any harm to individuals around them
  - The caller has been assessed ***not*** to be an adverse risk to the safety of the Behavioral
  - Health Responders
  - The scene has been assessed ***not*** to contain a weapon of any kind
- The caller has been assessed not to pose any harm to individuals around them
- The caller has been assessed not to be an adverse risk to the safety of the Behavioral Health Responders
- The scene has been assessed not to contain a weapon of any kind

The presence of a first responder is needed in these circumstances due to the potential need for medical intervention, which is outside the Behavioral Health Responder's professional qualifications. As it stands, both Emergency Medical Technicians (EMTs) and Law Enforcement medics are trained to provide emergency medical intervention at the scene of an emergency; both entities can also transport individuals in crisis to stabilization centers, such as emergency departments. For this reason, a co-response of behavioral health professionals and emergency medical providers is recommended so that both entities are readily available to provide the appropriate support.

- The **Austin EMCOT program** includes an option to dispatch response teams that include a clinician and an EMS community health paramedic when medical need is assessed by a 911 call-taker, in addition to mental health crises.[83]
- In **NYC's planned Health-Centered pilot,** new Mental Health Teams of health professionals and crisis workers from FDNY Emergency Medical Services will be the default response to mental health emergencies in two high-need precincts.[84]

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[83] "Health and Human Services Form O Consolidated Local Service Plan (CLSP) Local Mental Health Authorities and Local Behavioral Health Authorities (DRAFT)," Integral Care, June 15, 2020, https://integralcare.org/wp-content/uploads/2020/06/CLEAN-Form-O-CLSP-June-15_2020.pdf

[84] "New York City Announces New Mental Health Teams to Respond to Mental Health Crises," The official website of the City of New York, November 10, 2020, https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises

Tier 3

Behavioral Health & Police Officer Co-Response

The following is a description of a scene assessment that would warrant the dispatch of a **Behavioral Health & Police Officer Co-Response:**

- The caller has been identified as experiencing an emergency involving a behavioral health crisis, has expressed a sense of harm/danger to themselves and others, and needs onsite stabilization with potential transport to an emergency department for further treatment/ follow up.
- The scene has been assessed to pose an adverse risk to the safety of the Behavioral Health Responders and others and, therefore, needs to be stabilized by Police Officers before any onsite assessments can be conducted
- The scene has been assessed to include a weapon

Identifying and engaging people with behavioral health needs in face-to-face encounters can require additional behavioral health expertise to keep officers, the individual, and bystanders safe. Even with significant specialized training, officers often face challenges when managing an encounter with a person with behavioral health needs or de-escalating a crisis. Behavioral health care providers can assist law enforcement on-scene with assessing the seriousness of symptoms and behaviors related to mental illness.[85]

A police officer's presence is requested at scenes, such as the one described above, so that they may stabilize a potential threat. Behavioral Health professionals will then continue to do an on-scene assessment and advise appropriately after the threat has been removed. When there is a crisis that does not warrant an emergency room-based evaluation, officers should seek less restrictive alternatives than arrest.[86] As of November 2020, in Suffolk County alone, SCPD responded to 4,227 mental health incidents, with 91% of those responses resulting in transportation to CPEP. During that period, they saw that there were over 20 individuals that repeatedly experienced behavioral health crises.[87] Having a trained mental health professional can provide a link to a continuum of care through referrals for ongoing community services and coordination to prevent continued utilization of law enforcement officers' time and continued cycling through the hospital system. Additionally, if an individual is taken into police custody and brought to central booking, they should be met by a clinician who can complete a thorough clinical assessment. Assessing for mental illness at central booking can divert individuals to mental health care and treatment to avoid ineffective, costly, and inhumane treatment of incarcerating individuals with mental illness.

- **Austin's EMCOT program** co-responds with law enforcement when 911 call-takers assess the threat of harm to self/other and/or presence of weapon. Police are responsible for securing the scene and neutralizing the threat of harm. EMCOT clinicians provide phone assistance to police officers en route as well as phone support to the community member experiencing the crisis. Clinicians are present on scene to assist with crisis stabilization. If harm is neutralized and police presence is no longer needed, EMCOT can relieve law enforcement from the scene, enabling police to return to

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[85] "Delivering Behavioral Health," Bureau of Justice Assistance, accessed January 30, 2021, https://bja.ojp.gov/program/pmhc/behavioral-health#role

[86] ibid.

[87] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

attending to criminal matters. In instances in which individuals are arrested and transported to central booking, Austin now employs clinicians from EMCOT's parent program, Integral Care, at central booking to initiate an assessment of mental health to determine eligibility for jail diversion, treatment and support options. Integral Care works closely with other members of the Behavioral Health Criminal Justice Advisory Committee (BHCJAC) in their shared mission to support persons with behavioral health needs and to promote justice and public safety.[88]

- **NYC's planned Health-Centered pilot** has established plans for a co-response when the presence of a weapon is identified. In these instances, NYC Health teams dispatched by 911 will be met by police to co-respond to the scene together.[89]

[88] "Health and Human Services Form O Consolidated Local Service Plan (CLSP) Local Mental Health Authorities and Local Behavioral Health Authorities (DRAFT)," Integral Care, June 15, 2020, https://integralcare.org/wp-content/uploads/2020/06/CLEAN-Form-O-CLSP-June-15_2020.pdf

[89] "New York City Announces New Mental Health Teams to Respond to Mental Health Crises," The official website of the City of New York, November 10, 2020, https://www1.nyc.gov/office-of-the-mayor/news/773-20/new-york-city-new-mental-health-teams-respond-mental-health-crises

Transforming Crisis Response: **Component 4**

Data Collection and Transparency

Data collection and transparency are a crucial part of program evaluation. It enables social workers and other professionals that rely on data to develop understandings of treatments, solutions, and options necessary to address social and physical problems. Organizations that value transparency can establish public trust, evaluate the impact and reach of their work, increase productivity, and identify gaps or areas for improvement. Making data available to the public increases legitimacy and promotes accountability. Programs dedicated to assisting the public require transparency to gain public support.

The data collected regarding a public safety program can describe and evaluate how the program is set up, how it is executed, and its outcomes. The first step in development of this proposed model is for both Suffolk and Nassau County to initiate an all-encompassing audit of 911 in order to analyze the existing system. The writers of this proposal attempted to complete this initial analysis, however, neither Suffolk nor Nassau County currently make detailed 911 data available to the public. The writers and researchers involved in the creation of this proposal attempted to obtain information in the following areas:

- Training type and training material used to train 911 call-takers
- Call scripts utilized by 911 call-takers to assess incoming calls
- Criteria related to how crisis calls are coded
- Breakdown of how many calls of each code occur on a monthly and yearly basis
- Detailed demographic information pertaining to each coded call
- Outcome of each dispatched call
- Evaluation of community members' experiences after receiving crisis response

Despite requests for data, the writers of this proposal were unable to access the necessary data to complete a comprehensive audit of the counties' emergency crisis response. Completion of a comprehensive 911 audit will enable an evaluation of system improvements to facilitate more detailed, community-specific recommendations.

Sample areas of inquiry to complete a comprehensive audit of 911 system:

- How are 911 calls processed, from placement to final outcomes,including key personnel, responsibilities, means of communication and prioritization, data entry points, and decision points?
- What types of training, protocols, management practices, and alternatives exist relative to 911 call processing at each level (e.g., call-takers, dispatchers, and responding officers)?
- What is the volume/rate (per capita) of 911 calls received, and how does this vary by incident type (e.g., nuisance complaint, crime in progress, medical emergency, domestic violence incidents, officer involved shootings), time of day, and geographic location?

The writers align the 4th component of this model - data collection, publication and analysis - to the proposal described in Section 3: Data Collection and STAT Act. Additionally, Nassau and Suffolk Counties can look to the cities listed below for examples of comprehensive, transparent, publicly available data collection related to crisis response models for behavioral health:

- Denver's STAR program displays recorded data, working group meeting notes, and outlines the current work. This information is available to the public through a dashboard and serves to promote transparency and community engagement.[90]
- Austin's EMCOT program has quarterly and annual data reports on the program submitted to the city and the county, and these reports are public records. EMCOT and the Austin Police Department provide regular reports to the Travis County Behavioral Health and Criminal Justice Advisory Committee, a cooperative association of Travis County criminal justice and behavioral health stakeholders.[91]

[90] "STAR Workgroup Updates." Denver Alliance for Street Health Response, July 28, 2020. http://dashrco.org/star/.
[91] Interview with Integral Care program coordinators, December 2020

Implementation on Long Island

The writers of this proposal recommend that the model described above be implemented within Long Island's existing crisis response structure. Building upon pre-existing community resources will facilitate the creation of a crisis response network that is responsive to the needs of residents.

The Long Island Crisis Center (LICC) is a 24/7/365 non-profit organization, established in 1971, which assists Nassau and Suffolk County constituents in crisis situations such as suicidal ideation, domestic violence, and mental health concerns, and provides general referrals and information. LICC served over 13,000 Nassau and Suffolk County residents last year.[92] LICC encompasses seven hotlines and serves as a supportive entity to Nassau County Department of Human Services, Central Nassau Guidance and Counseling Services, Office of Mental Health, National Suicide Prevention Lifeline, and other organizations.[93] The Crisis Center has recently expanded programming to include ChatLIVE, a weekend-evening service that uses online counseling services via phone, tablet, or computer, which has allowed even greater access to assistance for those in crisis. LICC operates through a base of volunteer counselors who undergo training and intervene with thousands of individuals in crises.[94] Their long standing reputation and ability to network, collaborate, and intervene with numerous organizations and individuals through their telephone service has been a vital resource for hundreds of thousands of residents.

In addition, the 211 Long Island Call Center has responded to thousands of calls for help with emergency financial assistance, food and household needs, health care, housing, legal assistance, safety services, mental health, addiction, transportation, and volunteer opportunities.[95] In 2020, over 20,000 calls were made to 211 Long Island and the website was visited over 300,000 times, directing individuals to vital resources.[96] However, recently, *"due to funding issues"* the hours of operation for assistance via telephone have been limited, creating a gap in services from 1pm-10pm Monday through Friday, and further limiting weekend assistance.[97]

Further collaboration with Response Crisis Center of Suffolk County, Long Island Safe Center, LI Against Domestic Violence, and other programs that support residents through 24/7 hotlines, warmlines, and services, can strengthen the services that already exist in our community. Thorough integration of these services into the 911 operating system would allow behavioral health and social service professionals to intervene more efficiently, reducing the need for police to be dispatched in noncriminal circumstances.

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[92] "https://Longislandcrisiscenter.org/," Long Island Crisis Center, accessed January 30, 2021, https://longislandcrisiscenter.org/

[93] "Get Help Now," Long Island Crisis Center, accessed January 30, 2021, https://longislandcrisiscenter.org/get-help-now/.

[94] "Discover LICC," Long Island Crisis Center, accessed January 30, 2021, https://longislandcrisiscenter.org/discover-licc/.

[95] "2-1-1 Long Island Connects People to Local Health and Human Service Agencies and Programs," 211 Long Island, accessed January 30, 2021, http://www.211li.org/cms/

[96] "1-1 Counts," 2, accessed January 30, 2021, https://longisland.211counts.org/.

[97] "2-1-1 Long Island Connects People to Local Health and Human Service Agencies and Programs," 211 Long Island, accessed January 30, 2021, http://www.211li.org/cms/

Implementation in Suffolk County

There are several options for individuals who need the emergency psychiatric services that can only be provided in a hospital setting. Stony Brook University Hospital's Comprehensive Psychiatric Emergency Program (CPEP) *"is the designated entry point into the mental health system for individuals experiencing a psychiatric crisis"*.[98] Although data are not readily available to the public, CPEP serves an estimated 6,700 patients annually.[99] Long Island Community Hospital (LICH) provides a psychiatric emergency program, available 24/7 for assessments, and additional inpatient/outpatient programs are located across the county.[100] Suffolk County's existing infrastructure not only includes these medical facilities but community-based care centers as well. Strengthening relationships between community-based outpatient providers/preventative programming and those in need of the services avoids long term hospital stays, decreases financial burdens, and improves treatment outcomes for patients.[101]

Suffolk County already has a crucial part of the infrastructure needed for on-scene, non-police crisis response. DASH (Diagnostic and Stabilization Hub) and its Mobile Crisis Team (MCT), provided by Family Service League (FSL) of Long Island, offers a 24/7/365 crisis stabilization hub and a mobile response team to assess, counsel, refer, and triage individuals who are experiencing behavioral health crises. Social workers help meet the goals of avoiding hospitalization, self-harm, harm to others, and future escalation by meeting with people in their homes or communities to provide crisis intervention or assessments. In 2019, MCT and SCPD collaborated to transport 179 clients to CPEP, allowing residents to safely receive the services they need.[103] Although collaboration among police departments and FSL exists, the MCT is not directly linked to the 911 call center and is not available 24/7 for scene stabilization.

To ensure all community members' safety and promote positive behavioral health outcomes, we suggest that DASH be the base of Suffolk County Community Health Crisis Intervention. With MCTs already located in Hauppauge and Riverhead, and a collaboration formed with law enforcement, Suffolk County should be providing the support needed to expand MCT hours and staffing. When these first responding teams are integrated into 911 call centers for immediate dispatch, they will significantly improve their response times to callers.

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[98] "Comprehensive Psychiatric Emergency Program (CPEP)," Comprehensive Psychiatric Emergency Program (CPEP) | Stony Brook Medicine, accessed January 30, 2021, https://www.stonybrookmedicine.edu/patientcare/cpep

[99] "Director Appointed for CPEP at Stony Brook University Hospital:" SBU News, August 9, 2018, https://news.stonybrook.edu/newsroom/press-release/medical/abdulkaderalammd/#:~:text=The%20program%20treats%20more%20than,.edu%2Fpatientcare%2Fcpep

[100] "Behavioral Health," Long Island Community Hospital, August 2, 2019, https://licommunityhospital.org/conditions-we-treat/addiction/behavioral-health/

[101] A Community Guide for Development of a Crisis Diversion Facility: A Model for an Effective Community Response to Behavioral Health Crises. February 2020. https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityGuidebook_v6.pdf

[102] "Diagnostic, Assessment, and Stabilization Hub (DASH): Hotline 631-952-3333," Family Service, accessed January 30, 2021, https://www.fsl-li.org/help-services/diagnosis-assessment-and-stabilization-hub-dash/.

[103] Geraldine Hart, "Police Reform and Reinvention Collaborative" Suffolk County Police Department, accessed January 30, 2021, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

Implementation in Nassau County

With 11 hospitals across Nassau County,[104] only Nassau University Medical Center has a separate Psychiatric Emergency Department.[105] Zucker Hillside Hospital's adult behavioral health crisis center serves as a walk-in clinic, five days a week, to connect community members with medication, assessments, crisis intervention based therapy, and coordination of care.[106] Similarly, Cohen Children's Pediatric Behavioral Health Urgent Care center follows the same guidelines, serving those ages 5-17.[107] Limitations to these services include lack of overnight and weekend services and the need to travel to one of the few locations for assessments.[108] Unlike Suffolk County, Nassau does not have any standalone stabilization hubs which provide 24/7/365 intervention services.

Whereas Nassau County's crisis response infrastructure is not currently scaled to its population's size and level of need, some organizations provide crucial services. Central Nassau Guidance and Counseling Services' CCBHC program, established in 2017, provides behavioral health services to over 4,000 individuals each year.[109] Their Mobile Recovery Unit was designed to meet people in their communities, who otherwise may not be able to access mental health services.[110] The Mobile Crisis Unit is parked in high-needs neighborhoods to provide greater access for community members. The ability to reduce barriers to care through mobile units is vital, and these mobile crisis units can intervene on-site during an active crisis.

Nassau County's Mobile Crisis Team provides licensed behavioral health workers and medical staff to meet individuals in the community to intervene and assess while linking to services and following up. This team is available from 10am–11pm;[111] however, response times can be up to three days. The 2021 Proposed County Budget only includes two social workers to the NCPD Mobile Crisis team.[112] Further, the Nassau MCT does not transport individuals in crisis to locations such as psychiatric emergency departments, often necessitating police involvement to transport.

Implementation in other Long Island Townships and Villages

Nassau and Suffolk County each have approximately twenty separate village and town police departments, each with its own policies and services.[113] These jurisdictions vary in demographics, political landscape, technological capacity, legal constraints, and population size. In order to propose and develop alternative

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[104] "Nassau County Community Health Assessment and Community Health Improvement Plan, 2019-2021," Nassau County, https://www.nassaucountyny.gov/DocumentCenter/View/27781/Nassau-County-DOH-CHA_CHIP-2019-2021?bidId=

[105] "Psychiatric Emergency Department," NuHealth, December 15, 2015, https://www.numc.edu/our-services/emergency-medicine/psychiatric-emergency-department/

[106] 2017 November 30th, "Immediate Help during a Mental Health Crisis," Northwell Health, October 15, 2020, https://zucker.northwell.edu/news/the-latest/immediate-help-during-a-mental-health-crisis

[107] "Pediatric Behavioral Health Urgent Care Center," Northwell Health, accessed January 30, 2021, https://childrenshospital.northwell.edu/departments-services/pediatric-emergency-medicine/programs-services/pediatric-behavioral-health-urgent-care-center.

[108] "Adult Behavioral Health Crisis Center (Walk-in Clinic)," Northwell Health, accessed January 30, 2021, https://www.northwell.edu/behavioral-health/programs-services/adult-behavioral-health-crisis-center.

[109] "Hope Starts Here," CN Guidance & Counseling Services, centralnassau.org, accessed January 30, 2021, https://centralnassau.org/

[110] ibid.

[111] "CRISIS HOTLINE AND SERVICES," Nassau County, accessed January 30, 2021, https://www.nassaucountyny.gov/1700/Crisis-Hotline-Services.

[112] Frank Rizzo - et al., "Reimagining Policing, Post-Floyd," *Massapequa Observer*, November 8, 2020, https://www.massapequaobserver.com/reimagining-policing-post-floyd/

[113] "NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens," August 2020. https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf

responses to behavioral health crises in each of these jurisdictions, an analysis of each municipality's specific needs is required.

Funding

As has been previously noted, the current system of responding to behavioral health crises is extremely and unnecessarily expensive for the taxpayers. The reforms proposed in this report can be funded through a restructuring of tax dollars allocation and will, ultimately, allow for funding of programs that benefit all community members. The investment in alternative response programs elsewhere in the U.S. have been found to reap fiscal benefits in the areas of health care, policing, and legal costs.[114]

As per the 2020 Proposed Nassau County Budget, funding for the police service is $819 million, or 26.3% of Major Operating Funds' expenses. Further, there are 3,298 full-time staff members in the Nassau County Police Department compared to the 576 full-time staff in the Department of Social Services.[115] In areas with programs similar to those proposed in this report, salary costs for mental health professionals have been minimal. For example, the CAHOOTS program in Eugene, Oregon pays new crisis responders approximately $18/hour and the EMCOT program is expending about $150K/year total in salaries.[116] Considering the current police department expenditures related to behavioral health and houselessness crises, the reforms proposed here would require a nominal expense and is likely to achieve a significant financial benefit.

As per the Recommended Operating Budget for Suffolk County, the estimated permanent salaries in the police district for the year 2020 totaled over $247 million.[117] The 2021 recommended budget for permanent salaries within the Suffolk County police department is over $236 million.[118] This does not include funds allocated for the Sheriff's department(s). The 2021 Recommended Operating Budget in Suffolk County notes that the police department received more Coronavirus Aid, Relief and Economic Security (CARES) Act revenue ($112.4 million) than other county agencies, with most of that funding used for PD salaries. It is also recommended that, *"to mitigate the impact to public safety resulting from no new police classes"*,[119] the police department receive over $40 million for overtime salaries, more than 7 times the amount of overtime funding recommended for the Public Works Department.[120] At the same time, several agencies contracted through the Suffolk County Mental Hygiene Division which were providing mental health or substance abuse treatment services had their funding reduced or eliminated.[121] Overall, the recommended 2021 permanent salaries for Human and Community Services is only $5,013,713.00.[122] In reviewing the proposed 2021 operating budget for Suffolk County, it is clear a reallocation of funds to alternate crisis responses would better serve the community members and taxpayers.

An additional option for funding the reforms proposed in this report is an increase in sales tax, if approved by county voters. By imposing even a slight increase in the sales tax (i.e. 0.1%), mental health

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[114] "Alternatives to Police as First Responders: Crisis Response Programs," Albany Law School, accessed January 30, 2021, https://www.albanylaw.edu/centers/government-law-center/policing/explainers/Pages/Alternatives-to-Police-as-First-Responders-Crisis-Response-Programs.aspx

[115] "Nassau County 2020 Proposed Budget," Nassau County, https://www.nassaucountyny.gov/DocumentCenter/View/26538/2020-Proposed-Budget-Book-FINAL?bidId=

[116] "Alternatives to Police as First Responders: Crisis Response Programs," Albany Law School, accessed January 30, 2021, https://www.albanylaw.edu/centers/government-law-center/policing/explainers/Pages/Alternatives-to-Police-as-First-Responders-Crisis-Response-Programs.aspx.

[117] "Review of the 2021 Recommended Operating Budget," Suffolk County Legislature https://www.scnylegislature.us/DocumentCenter/View/73956/10262020-Review-of-the-2021-Recommended-Operating-Budget-PDF pg. 55

[118] ibid. 152

[119] ibid. 152

[120] ibid. 40

[121] ibid. 121-122

[122] ibid. 123

programs and facilities can be established and operated and houselessness and shelter programs can be added. In Olympia, Washington, this slight increase of 0.1% alone was projected to generate 2.4 million dollars for these resources.[123]

In addition to the use of tax dollars to fund the response efforts proposed, there are several grants that can supplement the funding of the proposed reforms. The Delivery System Reform and Incentive Payment ("DSRIP") is part of section 1115 of the Medicaid waiver safety-net care program. The program provides states with funding to support hospitals and health care providers in initiating Medicaid payment and delivery system reforms. On Long Island, the DSRIP performance provider systems ("PPS") as of 2014 include Stony Brook University Hospital, Long Island Jewish Medical Center, Catholic Health Services of Long Island and Nassau University Medical Center.[124]

The Substance Abuse and Mental Health Services Administration ("SAMHSA") offers multiple grant programs for substance abuse and related health and social support services. These grants include both block grants and targeted funding to the states.[125]

Senate Bill #4441, the **"CAHOOTS ACT,"** is a bill that was introduced on August 7, 2020, by Ron Wyden of Oregon and Catherine Cortez Mastro of Nevada. The bill has not yet been brought to vote. If passed, however, this bill would create a funding stream for the reforms we propose. The bill proposes the use of Medicaid dollars to launch alternative programs to policing related to mental health and substance abuse crises across the country. Specifically, the bill proposes a 95% Medicaid match for any state, city or county that creates a mobile crisis outreach program separate and apart from the police force.[126]

Contracts between private health care entities and counties can aid in response efforts and decrease the tax burden on citizens. These contracts exist in other locales that presently have similar alternative crisis response programs. For instance, the aforementioned CAHOOTS program is administered by the White Bird Clinic which is an independent nonprofit clinic providing community-based healthcare services through a contract between the clinic, the police department and the county.[127] Almost all alternative programs throughout the country are operated by the municipality, the police department, the community or a combination of the three.

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[123] 2020 Preliminary Operating Budget - Olympia Washington. "2020-Preliminary-Budget.pdf," accessed January 30, 2021, https://drive.google.com/file/d/1QGMK2lz25GyPLnaZl2P2xH52DaCO5Ain/view pg.127

[124] "Department of Health," DSRIP Attribution by New York City, Long Island, and Rest of State and PPS, accessed January 30, 2021, https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/attribution_summary_public_format_round_3htm

[125] "Funding Opportunities," SAMHSA, accessed January 30, 2021, https://www.samhsa.gov/tloa/tap-development-resources/funding-opportunities.

[126] Peter A. DeFazio, "H.R.7961 - 116th Congress (2019-2020): CAHOOTS Act," Congress.gov, August 7, 2020, https://www.congress.gov/bill/116th-congress/house-bill/7961?r=2&s=1

[127] "Alternatives to Police as First Responders: Crisis Response Programs," Albany Law School, accessed Jan 30, 2021, https://www.albanylaw.edu/centers/government-law-center/policing/explainers/Pages/Alternatives-to-Police-as-First-Responders-Crisis-Response-Programs.aspx

Conclusion

It cannot be denied that our Long Island communities and the United States at large are in a period of multiple, overlapping crises. Severe and widespread economic struggles and social isolation caused by the COVID-19 pandemic, acute awareness of racialized violence on our streets and in our institutions, and a deeply politically-divided populous are coalescing to create a societal mental health crisis unlike any we have seen before. As we have witnessed with the effects of the coronavirus, the most vulnerable members of our communities experience the worst impact of any large-scale crisis.

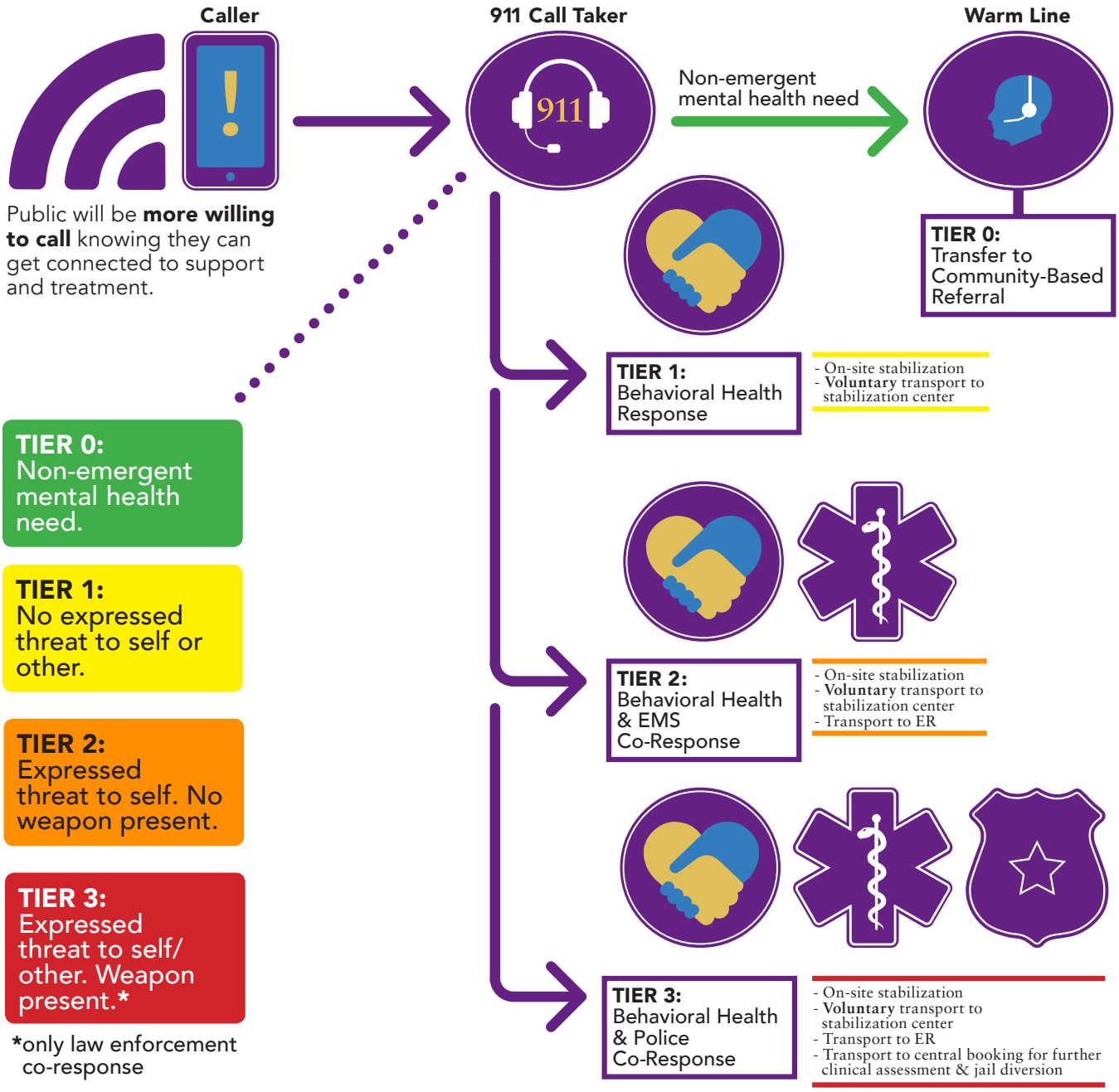
Facing these crises, now is the moment to act decisively to reform systems that are using resources inefficiently and failing to adequately meet the needs of the community. The evidence presented in this proposal shows that relying heavily on law enforcement and the standard 911 system to respond to behavioral health and houselessness crises in our communities is insufficient and outdated. The Alternate Crisis Response workgroup has drawn on data and best practices from around the country to propose alternatives that will best serve Long Islanders who experience crises and will do so safely, justly, and efficiently.

We urge legislators, policymakers, and community members to consider the numerous benefits of,

- training 911 dispatchers to identify and respond to callers experiencing emergent behavioral health and houselessness crises,
- creating a tiered system of emergency response to match the needs of the caller and best utilize the skills of the non-police, public health responders,
- scaling up Long Island's existing crisis infrastructures through the creation and expansion of community-based stabilization hubs and creation of new behavioral health first responder positions to enable quick and safe responses, and
- implementing clear and transparent data collection, publishing and analysis of all related crisis response data to ensure that taxpayer money is used fairly and efficiently.

These policies will place Long Island alongside other U.S. jurisdictions that have made 21st century reforms to their responses to the most vulnerable members of the community. The model proposed here will not only respond to the needs of those with behavioral health and houselessness needs but will also make Nassau and Suffolk counties safer and more livable for all residents and will help meet the challenges of the current fiscal landscape.

Transforming Crisis Response
for mental health, substance abuse, & houselessness



Components of Proposed Model:

1. *911 Call Centers*: implementation of five strategic reforms that ensure call-takers are equipped to holistically assess callers in crisis

2. *First Responders*: creation of Behavioral Health responder teams composed of clinical professionals, certified peer specialists, and crisis responders

3. *Criteria-Based Dispatched Response*: creation of a 3-tiered response system that dispatches the appropriate first responder to match the risk posed by the individual in crisis to self/other

4. *Data Collection and Transparency*: collection and reporting of comprehensive, publicly available data on *all* 911 calls, inclusive of which calls receive crisis response, which response is made, and the outcome of the response

Benefits

- **End criminalization** of mental illness, substance abuse, houselessness.
- **Supportive, non-traumatic interactions** with community members in crisis
- Linkages to long-term **support services**
- ***Cost Savings*!** Reduce cost to taxpayers.
- Increased police efficiency by reducing time spent responding to non-criminal matters.

Transforming Traffic Enforcement

Section Summary

According to The Stanford Open Policing Project 2020, "More than 20 million Americans are stopped each year for traffic violations", making this one of the most common ways in which the public interacts with the police.[1] National and local studies — even a recent study on traffic stops in Suffolk County — consistently find that Black and Hispanic drivers are significantly more likely to be stopped by police, and have their cars searched. The degree of bias that is inflicted upon Black and Hispanic communities during traffic stops has been well-researched and well-documented. The detrimental impact of this bias spans the spectrum of financial hardship to unnecessary loss of life. At the societal-level, public safety and trust in law enforcement is eroded by outdated policing practices, such as pretextual stops, thereby widening the gap between low-income communities and communities of color and the governmental institutions charged with keeping community members safe. Traffic enforcement is one of the most critical areas for police reform.

The Traffic Violations Workgroup, a subgroup of LI United to Transform Policing and Community Safety ("LI United"), and United for Justice in Policing (UJPLI) has developed this proposal in hopes that it can begin the conversation on Long Island in ensuring roads are safe for all Long Islanders without trampling on the rights of low-income community members and community members of color. This proposal is based on months of in-depth research conducted by the workgroup, and composed of feedback from hundreds of active and engaged Suffolk and Nassau County community members. The goal of this proposal is that it starts governmental officials on the path toward implementing reasonable, innovative options for transforming traffic enforcement. At its core, this proposal is a vision that lays out the innovative practices that Suffolk County, Nassau County, and Long Island's many towns and villages should investigate and adopt in order to ensure comprehensive public safety on Long Island's roadways.

Based on the workgroup's research regarding how traffic safety is managed across the United States and opportunities for improving traffic safety on Long Island, the writers of this report have developed a proposal to transform traffic enforcement. The primary components of the proposal contain systemic, structural reforms that would put Long Island amongst a short-list of cutting edge communities in transforming road safety. The components of the proposal are:

1. Bar police officers from engaging in pretextual stops and restrict warrantless searches of vehicles and persons without prior signed written consent.
2. Explore options to increase police efficiency by leveraging unarmed traffic officers to enforce routine traffic laws and respond to traffic incidents.
3. Collect, publish, and analyze comprehensive traffic data according to the STAT Act.

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[1] "The Stanford Open Policing Project," openpolicing.stanford.edu, Stanford, accessed January 29, 2021, https://openpolicing.stanford.edu/findings/

[2] Pretextual stops are those that permit police officers to stop a car for a minor violation in order to investigate a possible, more serious offense, as permitted via the Supreme Court case Whren v. United States 517 U.S. 806 (1996).

Additionally, this report provides supplemental recommendations that combined with the primary recommendations would make Long Island a key leader in public safety. These are:

4. Leverage Unmanned Alternatives to Traffic Enforcement & Safety, such as utilizing smarter road design, Including traffic calming devices, to minimize traffic violations.
5. Develop equitable models for managing and using traffic revenue by installing sliding scale fines (day-fines) based on income and wealth, and leveraging community-friendly options, such as vouchers, for stops regarding equipment failure. Revenue from traffic fines should be directly invested into under-resourced Long Island communities.

From this proposal, key benefits in safety and equity would emerge:

- A decrease in bias that drives disproportionate traffic stops across Long Island.
- A decrease in the possibility of unnecessary escalation occurring between law enforcement and community members when traffic stops occur.
- A return to road safety being specifically about the safety and well-being of motorists on Long Island's roadways.
- The ability to utilize Long Island's roadways as a means to invest into the most under resourced and disenfranchised communities, thereby creating more equitable outcomes.

Why Routine Traffic Enforcement by Police is a Problem.

> "...Any effort to eliminate racism in American policing must figure out what to do about traffic enforcement, which is the leading cause of interactions between police and the public, according to the Department of Justice. And, by law, it is almost entirely up to the officer whether to let the person go with a warning, give them a ticket, ask to search their vehicle, or escalate the situation even further. It is an interaction intentionally designed to let the officer do virtually whatever he or she wants, **reflecting the inherent biases of our legal system.**"[3] -Aaron Gordon (Vice, June 11, 2020)

As communities and local officials on Long Island seek to reimagine and reinvent the local apparatus that maintains public safety, they must reflect upon and confront their own governmental systems and structures that have tiered, divided, and traumatized community members.

Nowhere is the creation of a two-tiered justice system more apparent than in Long Island's many police departments, where biased practices in enforcing basic traffic laws results in discriminatory behavior against community members of color, specifically those who identify as Black and Hispanic. The Newsday report titled *"Newsday analysis: Suffolk police stopped, searched minority drivers at higher rates"* concluded that Black and Hispanic drivers were significantly more likely to be pulled over and stopped for basic traffic violations than their white counterparts.[4] Specifically, Black drivers were four times more likely than white drivers to be pulled over while driving, and Hispanic drivers were two times more likely to be pulled over than white drivers.

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[3] Aaron Gordon, "We Don't Need Cops to Enforce Traffic Laws," *Motherboard: tech by VICE*, VICE, accessed January 29, 2021, https://www.vice.com/en/article/g5pvgm/we-dont-need-cops-to-enforce-traffic-laws

[4] David M. Schwartz and Matt Clark, "Newsday Analysis: Suffolk Police Stopped, Searched Minority Drivers at Higher Rates," *Newsday*, Newsday October 21, 2020, https://www.newsday.com/long-island/investigations/police-traffic-stops-1.50041710

In addition, an analysis conducted by the Finn Institute, contracted by Suffolk County, showed that Black and Hispanic drivers were subjected to harsher post-stop enforcement actions than white drivers.[5] Passengers in these cars were subjected to harsher penalties, according to analysis by United for Justice in Policing LI.[6] These enforcement actions included stopping and searching Black and Hispanic drivers at higher rates than White drivers. Figure 1 highlights key findings from this report, showcasing severe disproportionality in enforcement actions upon Black and Hispanic drivers in comparison to White drivers.

Figure 1: Findings from Suffolk County's Traffic Stop Report

Black Drivers

- Three times as likely to be subjected to physical force
- Twice as likely to be subjected to a vehicle search
- Twice as likely to be subjected to a search of their person
- 84% more likely to be restrained
- 59% more likely to be arrested
- Significantly more likely to be detained longer (an average traffic stop is 15 min, Black drivers are 28% more likely to be detained for 16-30 mins)
- 42% more likely to be placed in the back of a police unit (if they have been asked to exit the vehicle)
- Black drivers are also issued a larger number of ticketed violations.

Hispanic Drivers

- 16% more likely to have a search on their person performed (on driver or passenger) than a white driver.
- 16% more likely to be arrested
- 32% more likely to be issued a ticket
- 25% less likely to be issued a warning
- 16% more likely to be detained for more than 15 mins (often Hispanic drivers will be detained for more than 30 minutes)

[5] Robert E. Worden, Kenan M. Worden, Hannah Cochran, "Traffic Stops by Suffolk County Police," Suffolk County Police Department, accessed January 7, 2021, https://www.suffolkpd.org/Portals/59/scpd_pdfs/tstop/2018TStopSummaryReport.pdf

[6] ibid.

Although Black drivers are more likely to be pulled over, searched, and subjected to harmful outcomes, the report showed that searches of Black drivers were 29% more likely than searches of White Drivers to yield *"no contraband"*, such as an illegal weapon or drugs. **This is a critical finding, indicating significant bias in the decisions police officers make on which drivers they stop.**

Although the data cited above is predominantly from Suffolk County, which was under a Department of Justice consent agreement since 2014, Nassau County likely has similar trends. A preliminary look at Nassau's reported 2019 vehicle and traffic law data[7] shows that Black people are twice as likely as white people to be stopped.[8] This is unsurprising given that at Black community members are 5.9 times more likely than white community members to be arrested In general, and 3.9 times more likely than white community members to be arrested for possession of an illegal substance, although research shows that possession of drugs is relatively similar within Black and white communities. Unfortunately, Nassau County has yet to provide comprehensive traffic stop data to determine the degree of disproportionality that exists in its practices related to enforcing basic traffic laws. Nevertheless, the data that Long Island does have is clear — Long Island has a problem of racial disparity, inequality, and inequity in traffic stop outcomes. This must be addressed.

The Impact of Police Traffic Misconduct is Lives Lost, Abused, & Traumatized

The impact of the *"Driving while Black"* dilemma, or colloquially *"DWB"*, is more than simple statistical significance. This phenomenon has taken immense space in the psyche of Black Americans. Black parents, understanding the history of bias in policing and the consequences of a wrong move made toward a fearful law-enforcement officer, take great pains — in what is only known as ***"The Talk"***— to detail exactly the words and movements children should make if they ever find themselves pulled over by an officer. Black youth, looking forward to the day that they are granted the exclusive right to drive with a newly minted license, come to see surviving DWB as of rite-of-passage — knowing that *"the struggle"* lives on in the next generation as they drive on public roads, pay law enforcement salaries, and bear the price of their skin, their culture or community being seen as overtly threatening to the larger society.

The cost of a broken system, where police officers may stop, search, restrain, and utilize lethal force based on their discretion during a basic traffic stop can, in the worst case, lead to the loss of life. Sandra Bland, a 28 year-old African American who was pulled over due to the failure to signal during a lane change, would not have died if this system had been corrected. Philando Castille, a 32 year-old African American man who was shot during a routine traffic stop where the officer believed the driver fit the appearance of a robbery suspect, would not have died if this system had been reformed.

As early as 2011, charges and claims of biased/inequitable policing in traffic stops were being made on Long Island.[9] This led to a 2014 mandate by the DOJ that Suffolk County must change its practices and procedures related to supervision and training of the police officers.[10] However, despite this DOJ consent agreement, a 2015 NY Times article continued to highlight that Suffolk County police engaged in profiling, harassment, and arbitrary stops, along with a stop and rob scheme.[11]

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[7] Due to issues related to its data collection, Nassau County's 2019 data has 2,351 traffic stops where the race of the motorist is unknown. Therefore, the actual disparities in traffic stops by race is unknown.

[8] "Nassau County Police Department Summons Reporting and Findings," Nassau County, accessed January 17, 2021, https://www.nassaucountyny.gov/DocumentCenter/View/30670/Nassau-County-Police-Department-Summons-Reporting-and-Findings?bidId

Traffic stops on Long Island have also been used as a convenient excuse to check documentation status of Long Island's Hispanic community members.[12] One such case, highlighted in Documented's May 2019 news story, was that of Felipe Inguez, a 49-year old undocumented carpenter who was pulled over for a broken tail-light. Lloyd Harbor police officers, having found an outdated deportation order and used the opportunity to report the community member to Immigration and Customs Enforcement (ICE). In a matter of months, ICE agents descended upon Felipe's home. While both Suffolk and Nassau counties have active policies that mandate National Crime Information Center (NCIC) citizenship checks cannot be conducted for basic traffic infractions, many areas of Long Island have refused to adopt the counties' policies.[13] In these circumstances, traffic stops can be used as a tool to terrorize otherwise peaceful communities and foster distrust between hard working communities and the police.

Process

The Traffic Violations Workgroup is a subgroup of LI United to Transform Policing and Community Safety. The group was charged in August 2020 to review the ways that police misconduct shows up in traffic enforcement and to provide research-based recommendations to mitigate misconduct and support a safer Long Island.

To develop this proposal, the Traffic Violations Workgroup first researched the extent of the problem regarding disproportionate outcomes on Long Island. The workgroup then engaged in an extensive literature review, and interviews with governmental officials and traffic experts across the nation to determine national and international models for minimizing bias in traffic stops. Through a series of town halls and listening sessions, the workgroup heard suggestions and feedback on their proposal from the at-large Long Island community and began to research these suggestions. Long Island United uses academic rigor (i.e. data analysis, best practice reviews and key informant interviews), combined with community feedback from residents across Long Island to inform its proposal.

The analysis was supplemented by research done by United for Justice in Policing who relied on the academic and statistical skills of two independent researchers working with UJPLI. In addition, members of UJPLI have worked for many years to perform oversight of the SCPD compliance with the 2014 Consent Agreement with the U.S. DOJ. In this role, UJPLI members have regularly participated in community forums with both the SCPD and the DOJ, have met regularly with the Police Commissioner and other high-ranking officials in the SCPD, and have continuously advocated for the community so that the SCPD will meet its obligations.

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[9] Liz Robbins, "Latinos, in Class-Action Case, Accuse Suffolk County Police of Bias and Harassment," *The New York Times*, The New York Times, April 30, 2015, https://www.nytimes.com/2015/04/30/nyregion/latinos-file-class-action-case-accusing-suffolk-police-of-bias-and-harassment.html#:~:text=Latinos%20in%20Suffolk%20County%20filed,for%20bias%2C%20the%20complaint%20said

[10] ibid.

[11] ibid.

[12] Kelsey Neaubauer and Brittany Kreigstein, "On Long Island, Undocumented Drivers Risk Their Freedom From Town to Town," *Documented*, DocumentedNY.com, June 19, 2019, https://documentedny.com/2019/05/31/on-long-island-undocumented-drivers-risk-their-freedom-from-town-to-town/

[13] ibid.

The Proposal

Eliminate disparity in traffic stops on Long Island by transforming the policies regarding police traffic enforcement, exploring options for alternative unarmed traffic officers, and collect, publish, and analyze, comprehensive data on traffic enforcement in alignment with the STAT Act.

Components of the Proposal

In accordance with their research and feedback from the Long Island community, the writers of this proposal included 5 key components for Long Island counties (Suffolk and Nassau County) and local townships to adopt.

Long Island's local governing bodies must do their due diligence in interpreting and implementing this proposal according to their specific budget, labor constraints, and public roadways. While the proposal does not detail the exact manner of implementation for Long Island's counties, townships, and villages, it does provide a roadmap for ensuring safer transportation and enforcement of basic traffic laws for all Long Islanders.

Our primary components of this proposal for structural reform are:

1. Bar police officers from engaging in pretextual stops and restrict warrantless searches of vehicles and persons without prior signed written consent
2. Explore options to increase police efficiency by leveraging unarmed traffic officers to enforce routine traffic laws and respond to traffic incidents.
3. Collect, publish, and analyze comprehensive traffic data according to the STAT Act.

In addition, the writers of the proposal developed supplemental components to support and bolster the primary components. These are:

4. Leverage Unmanned Alternatives to Traffic Enforcement & Safety
5. Develop equitable models for managing and using traffic revenue by installing sliding scale fines (day-fines) based on income and wealth, and leveraging community-friendly options, such as vouchers, for stops regarding equipment failure. Revenue from traffic fines should be directly invested into under-resourced Long Island communities.

Primary Components of the Proposal

1. Bar Police Officers From Engaging in Pretextual Stops

"Frequent, intrusive vehicle stops aren't just an inconvenience. Beyond being a source of legal and even physical peril, and something that can get in the way of economic opportunity (since many jobs require travel by car), such stops, according to other studies, are a potent reminder to Black Americans of all the ways in which the full rights of citizenship remain denied to them.

A variety of "bias processes" influence the disproportional stops of Black drivers...But biases can be curbed through institutional redesign.

One thing that would make a big difference would be to end "pretextual" traffic stops."[14]

Across Long Island, pretextual investigative stops have resulted in disproportional traffic stop outcomes along racial and ethnic lines, revealing a bias in policing. A pretextual stop occurs when an officer pulls over a vehicle for a minor traffic infraction, such as equipment failure, in order to investigate a crime unrelated to the traffic infraction, and often solely rooted in suspicion. During these stops, the motorists

and their vehicles are often subjected to searches, frisks, and detainments. Pretextual stops are basically the traffic equivalent of *"Stop, Question, and Frisk"*, where based on discretional suspicion, police officers are capable of engaging in invasive practices on community members' bodies and property.

The guidance that accompanies Governor Cuomo's Executive Order 203, which mandates that police departments across New York State submit a plan to reimagine and reinvent policing, states:

"As noted by the Leadership Conference on Civil Rights, the wide latitude officers have to conduct a pretextual stop can contribute to the distrust between the community and officers."[15]

The quote highlights the fact that there are a plethora of rules that govern driving — windows that are tinted too dark, unlit license plates, the failure to put on the turn signal, the failure to stop at a stop sign for three seconds, etc. While these regulations are often necessary to maintain safe roads, they are also conveniently utilized as the rationale for stopping a vehicle and then searching it. The amount of officer discretion in these stops offers a path for implicit and explicit biases to become standard practice, culminating in increased distrust between community members and law enforcement.

In *"The Principles of Procedurally Just Policing"*, the Justice Collaboratory at Yale Law School detailed the severe and divisive effects of pretextual stops. The report highlighted studies showing that motorists who had experienced a traffic stop within the previous year were significantly less likely to seek assistance from the police and report neighborhood problems to the police. Additionally, it reported that traffic stops are a significant cause of a perceived decrease in police legitimacy, particularly within African American communities. It highlights research showing that Black motorists were less likely than White motorists to believe that the police gave them a legitimate reason for their traffic stop and that the officer had behaved appropriately during the stop, and more likely to believe that they received a harsher outcome than they deserved. This is considerably problematic given that often police officers do not convey to the driver their rights, such as the ability to deny consent to vehicle search, during these traffic stops, necessitating the need for the *"Right to Know Act"* (See Right to Know Act in the Police Accountability Section). This lack of perceived legitimacy in the policing institution across communities of colors has serious and significant detrimental effects on public safety that outweighs any benefits of pretextual stops.

The use of pretextual stops is clearly found across Long Island's police departments. Newsday's analysis of Suffolk County's traffic stop data found staggering differences between rates of Black, Hispanic, and White motorists being stopped and searched. It reported that in 2019, Black and Hispanic motorists comprised 18% and 23% of traffic stops, while only making up 7% and 15% of the driving age population respectively. This is in comparison to White motorists which comprised 53% of traffic stops but make up 73% of the driving age population.[17] The data is even more stark regarding vehicle searches. Newsday reported that the disparity between searches of Black and White motorists was larger than 134 of the 160 police departments whose data is kept in the Open Policing project.[18]

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[14] Neil Gross, "It Is Possible to Reform the Police: How to end the racial disparity in vehicle stops," *The New York Times*, The New York Times, Sept. 8, 2020, https://www.nytimes.com/2020/09/08/opinion/police-reform-biden.html

[15] "NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens." August 2020, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf pg. 29

[16] Megan Quattlebaum, Tracey Louise Meares, Tom Tyler, "Principles of Procedurally Just Policing," *SSRN Electronic Journal*, 2018, p. 39, https://policingequity.org/images/pdfs-doc/reports/principles_of_procedurally_just_policing_report.pdf

[17] David M. Schwartz, Matt Clark, "Newsday Analysis: Suffolk Police Stopped, Searched Minority Drivers at Higher Rates," October 21, 2020, https://www.newsday.com/long-island/investigations/police-traffic-stops-1.50041710

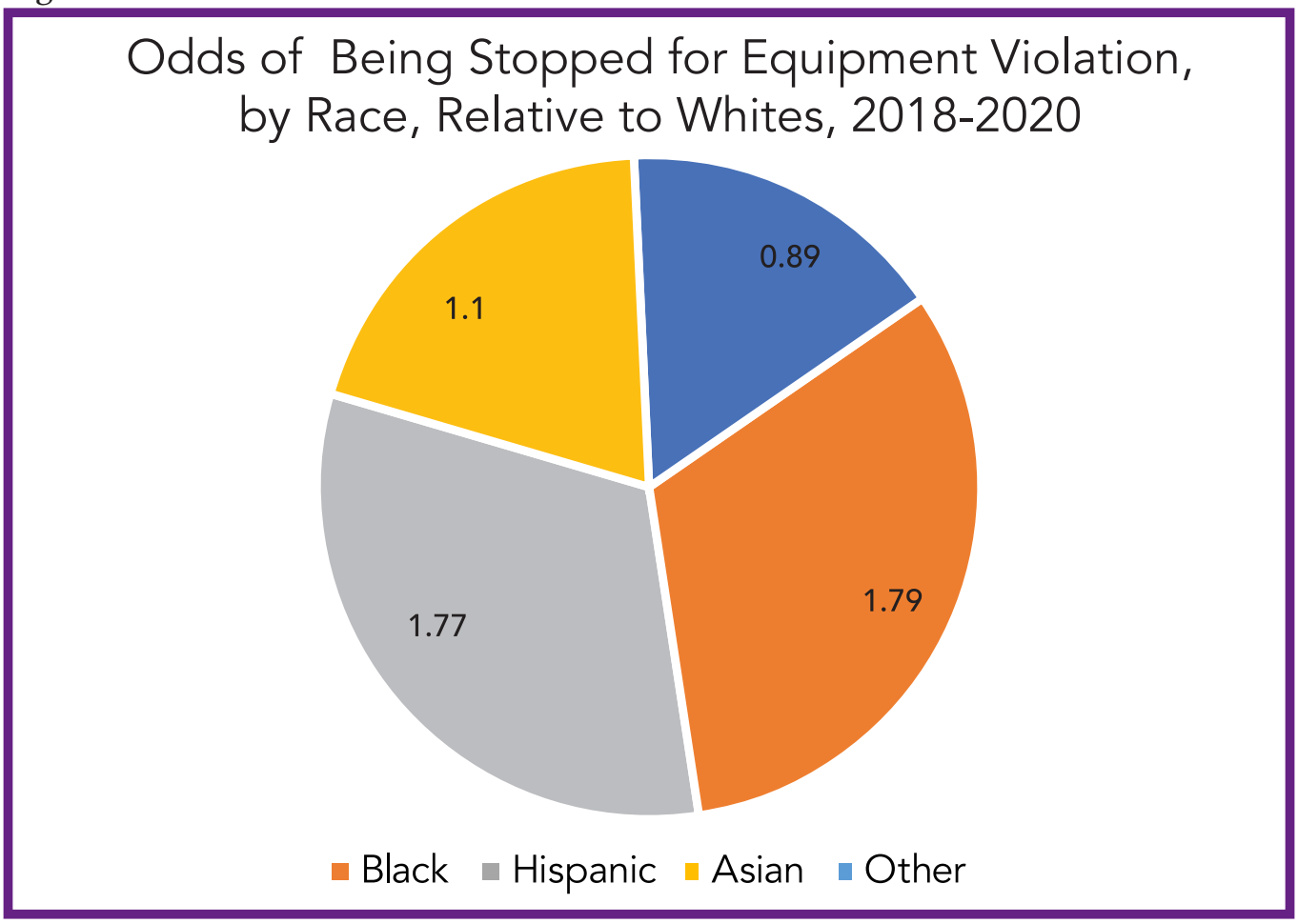
[18] ibid.

The analysis regarding disproportional searches is supported by Suffolk County's data analysis. The Finn Institute's report of Suffolk County traffic stops found that Black motorists were twice as likely as White motorists to be subjected to a search during a traffic stop. These searches of persons and vehicles were most commonly associated with reports of a suspicious vehicle or suspicious person, *"reasonable suspicion"*, and equipment failures. In fact, nearly a quarter of all stops for Black and Hispanic drivers were due to equipment failure, whereas only 15% of stops related to White Drivers were due to equipment failure. Additionally, Precinct Crime Units were more likely to search a vehicle than Highway Patrol Units. While the report does not mention by name *"pretextual stops"*, this data indicates that pretextual stops are a significant driver of racial bias.

Pretextual traffic stops and warrantless searches of vehicles and persons without prior signed written consent are primary components of structural racism in policing that facilitate racially biased discretionary traffic stop enforcement.

- Warrantless searches of **vehicles** during traffic stops should require:
  - Prior signed written consent of the vehicle owner/operator *or*
  - Prior on-scene authorization or a patrol or unit supervisor
- Warrantless searches of **persons** during traffic stops should require:
  - Prior signed written consent of the person(s) searched *or*
  - Prior on-scene authorization of a patrol or unit supervisor

Figure 2:



[19] Robert E. Worden, Kenan M. Worden, and Hannah Cochran, "Traffic Stops by Suffolk County Police," Suffolk County PD accessed January 7, 2021, https://www.suffolkpd.org/Portals/59/scpd_pdfs/tstop/2018TStopSummaryReport.pdf

[20] ibid. 10

As the U.S. 7th Circuit Court of Appeals aptly observed in the matter of U.S. v. Bloomfield in 2005:

"Whether you stand still or move, drive above, below, or at the speed limit, you will be described by the police as acting suspiciously should they wish to stop or arrest you. Such subjective, promiscuous appeals to an ineffable intuition should not be credited."

Researchers working with United for Justice in Policing Long Island dove deeper into the SCPD traffic data and found that the racial inequity in stops, and in pretextual stops especially, was even more profound than reported by Newsday and the Finn Institute. Importantly, UJPLI has found that the racial disparities in stops for equipment violations continue into 2020. Blacks and Hispanics are significantly more likely to be stopped for equipment violations than any other race (See Figure 2).

This is true for all years and the phenomena has been rising over time (See Figure 3). The highway bureau is less likely to stop vehicles for this reason.

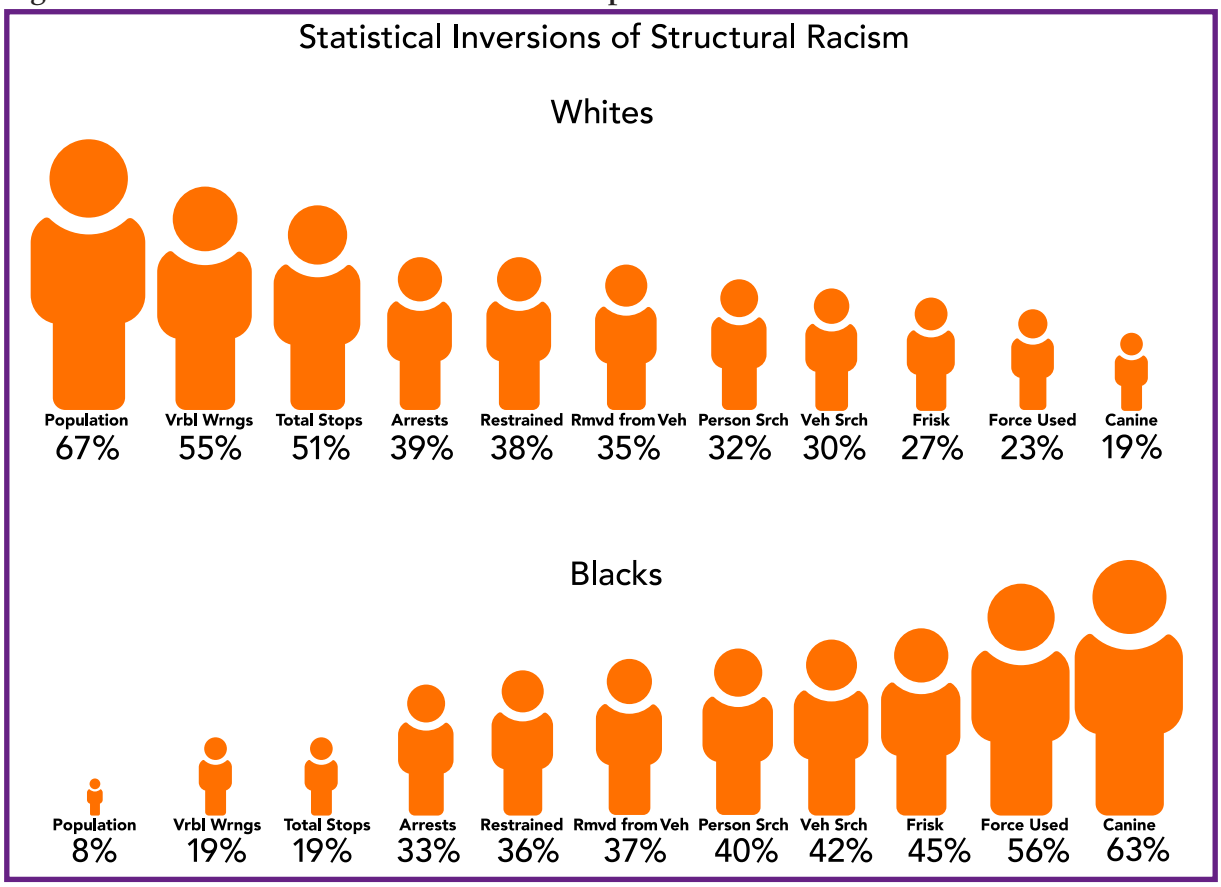
Figure 3: Odds of Being Stopped for Equipment Violation, by Race, Relative to Whites, 2018-2020

	2018	2019	2020
Asian	0.97	0.88	0.59
Black	1.54	1.75	1.83
Hispanic	1.53	1.75	1.81
Other Race	1.1	1.07	1.08
Age < 30	1.15	1.28	1.09
Female	0.9	0.9	0.8
HWY	0.17	0.16	-

The most disturbing visual of the biased post-stop behavior in Suffolk County is revealed below, again following the statistical analysis provided by UJPLI. Further indication of the structural racism that is evident from the traffic stop data is depicted in Figure 4. This chart goes beyond the breakdown of traffic stops by race reported in the recent Newsday article and the Finn report. Based on 2019 findings, tt shows an inverse relationship between the presence of a group in the general population with their presence in the traffic stop data for all reasons. The chart shows that while Blacks make up only 8% of the population, they make up 63% of stops where a Canine unit is deployed. In contrast Whites make up 67% of the Suffolk County population, yet are only 19% of the stops for which a canine is deployed. Similar discrepancies exist in these categories of stops between Whites and Hispanics.

[21] Ibid. 24

Figure 4: Statistical Inversions of Traffic Stop Outcomes



While the Finn Report's findings clearly revealed racial disparities and disproportionate post-stop outcomes in Suffolk County, the report did not provide objective evidence to support or bolster the necessity of these stops. In fact, the report states that *"Searches of White drivers'* vehicles were more successful than those of Black or Hispanic drivers, which is to say that overall, searches of Black and Hispanic drivers' vehicles were more likely to yield no contraband." This racial disparity in search rates and search hit rates is an indicator of the racial bias that exists in discretionary enforcement actions.

UJP's analysis of the SCPD traffic stop data for the first three quarters of 2020 reveals continued disproportionate stop outcomes in Suffolk County. In brief, the analysis finds that while total traffic stop activity declined, the disparity in the ratio of the frequency of stops by Blacks and Hispanics relative to whites increased with minor exceptions:

- The ratio of the frequency at which Blacks were stopped relative to Whites increased in 6 of the 8 commands. It saw marginal declines in the 4th and 5th Precincts. The largest increases for Blacks occurred in the 3rd and 1st Precincts , respectively — from 8.1 to 9.9 times the rate of Whites and from 9.2 to 10.6 times the rate of Whites.
- The ratio of the frequency at which Hispanics were stopped relative to Whites increased slightly in 6 of the 8 commands. It saw moderate declines in the 3rd and 4th Precincts. Commensurately, enforcement activity experienced declines in absolute terms overall while the disparity in the ratio of the frequency of those activities experienced by Blacks and Hispanics relative to whites increased with minor exceptions.
- The disparity in the rate at which Blacks were subjected to enforcement measures relative to Whites increased in most categories, most significantly and notably in warrantless person searches without consent, including protective frisks and those resulting in the recovery of no contraband and adjudication by verbal warning; use of restraint; removal from vehicle; and warrantless vehicle searches without signed consent, including those resulting in the recovery of no contraband and adjudication by verbal warning. The disparity in the rate of canine deployment did decline.

- The disparity in the rate for Hispanic people relative to white people saw its most significant and notable increases in the use of force; protective frisks yielding no contraband resulting in adjudication by verbal warning; and use of restraint. The most notable declines were in canine deployment and vehicle searches yielding no contraband resulting in adjudication by verbal warning.

The following table (Figure 5) lays out the continuing disparities:

Figure 5: Activity Frequency Ratios of Blacks and Hispanics Relative to Whites

SCPD Raw Traffic Data - Q1-Q3 2019 vs. 2020 Variance Analysis Variance							
Enforcement Action	**Variance 2019–2020 Stop Records**	**Activity Frequency Ratio Relative To Whites**					
		2019		2020		Variance	
		Blacks	Hispanics	Blacks	Hispanics	Blacks	Hispanics
Total Traffic Stops	-35.7%	3.02	1.62	3.13	1.59	3.9%	-1.6%
Equipment Violations	-51.7%	4.87	2.54	5.45	2.59	11.9%	2.0%
Other VTL	-47.5%	3.74	1.82	4.07	1.94	8.9%	6.7%
Reasonable Suspicion	-59.5%	7.19	2.24	7.29	2.67	1.4%	19.2%
Ticket Issued	-36.6%	2.80	1.73	2.84	1.70	1.7%	-1.7%
Verbal Warning Issued	103.5%	2.91	1.28	3.13	1.59	7.6%	24.4%
Removed from Vehicle	-37.4%	8.82	2.73	11.31	2.83	28.2%	3.8%
Restrained	-46.1%	8.06	2.10	11.14	2.71	**38.2%**	29.3%
Force Used	-63.6%	16.69	1.95	20.86	**8.79**	25.0%	**350.0%**
Protective Frisk	-54.9%	12.82	3.65	21.65	4.38	**68.8%**	20.3%
Protective Frisk - **No Contraband - Verbal Wrng**	-3.8%	15.22	3.66	28.37	5.86	**86.4%**	**60.2%**
Vehicle Search	-33.6%	11.50	2.97	14.69	3.02	**27.7%**	1.8%
Vehicle Search Without Signed Consent	-34.7%	11.75	2.99	14.69	3.01	25.0%	0.7%
Vehicle Search - No Contraband - Verbal Wrng	-22.2%	14.08	3.42	18.08	2.88	28.4%	-15.9%
Person Search	-35.4%	10.35	2.95	13.92	3.07	**34.5%**	4.1%
Person Search Without Signed Consent	-34.9%	10.68	3.02	14.99	3.22	**40.3%**	6.7%
Person Search - No Contraband - Verbal Wrng	-5.4%	14.70	3.70	23.68	4.46	**61.1%**	**20.5%**
Arrest	-50.2%	7.18	2.34	8.28	2.38	15.3%	2.0%
Canine Deployment	-22.1%	33.00	2.88	17.93	1.95	-45.7%	-32.1%

Continued

SCPD Raw Traffic Data - Q1-Q3 2019 vs. 2020 Variance Analysis Variance							
The Passenger Experience							
Passenger Stops	-35.0%	5.39	2.56	5.66	2.45	5.1%	-4.6%
Passenger Removed from Vehicle	-29.4%	16.50	3.67	17.79	3.32	7.8%	-9.5%
Passenger Restrained	-36.2%	15.86	2.49	20.17	2.70	27.2%	8.1%
Passenger Subject to Force	-90.9%	16.69	1.95	8.34	3.52	**-50.0%**	**80.0%**
Passenger Frisked	-24.3%	23.64	5.60	28.74	6.16	21.6%	9.9%
Passenger Frisked - No Contraband - Verbal Wrng	-12.9%	23.64	5.60	28.74	6.16	21.6%	9.9%
Precincts							
First Precinct	-44.3%	9.24	2.35	10.63	2.57	15.1%	9.3%
Second Precinct	-50.5%	3.11	2.11	4.02	2.42	29.5%	14.6%
Third Precinct	-56.3%	8.14	7.80	9.93	7.76	22.0%	-0.5%
Fourth Precinct	-55.5%	1.78	1.56	1.77	1.41	-0.2%	-10.0%
Fifth Precinct	-51.6%	2.52	1.24	2.09	1.37	-16.9%	10.6%
Sixth Precinct	-54.3%	2.20	0.92	2.42	1.13	10.2%	22.0%
Seventh Precinct	-37.7%	3.41	0.97	4.00	1.08	17.3%	10.4%
Highway Bureau	-7.5%	2.00	1.16	2.24	1.26	11.7%	9.2%

The writers of this proposal acknowledge that the SCPD has implemented mandatory anti-bias training for all police officers, beginning in 2018. The program has been recognized as one of the best by the federal government. We recommend that Nassau County do the same, since anti-bias training is simply good practice, even if it is not effective as a standalone intervention to decrease racial disparity in stops and arrests. Regardless of anti-bias training, the racially disproportionate outcomes following traffic stops in Suffolk County continue to occur. In a recent interview SCPD Deputy Police Commissioner Risco Mention-Lewis acknowledged that this training was only part of a larger whole. She said, *"[Y]ou're going to have procedure and process changes to make changes, right. And so putting the two of those things is how you get change. It is not just through an introduction to an idea [of implicit bias]."*[22] We agree; the data, the disproportionate outcomes, and the detrimental effects to public trust of police enforcement point to one conclusion: restrict police departments from engaging in pretextual stops.

[22] Charles Lane, "Suffolk Police Deputy Commissioner Mention-Lewis Will Talk Implicit Bias With Ferguson, MO," WSHU, accessed January 19, 2021, https://www.wshu.org/post/suffolk-police-deputy-commissioner-mention-lewis-will-talk-implicit-bias-ferguson-mo#stream/0

Examples of Restricting Pretextual Stops in Other Cities & Localities

In 1996, the U.S. Supreme Court ruled in Whren vs. United States that pretextual stops are constitutional as long as an actual traffic violation occurred.[23] Nevertheless, local governments are allowed to place constraints on what rationale law enforcement utilizes to stop motorists, as well as the practices police officers can engage in once a stop has occurred. Many states and local governments have capitalized upon this opportunity to mitigate bias and distrust between community members and police.

In many states, including Virginia,[24] Maryland,[25] and Pennsylvania,[26] the passage of legislation and/or orders from state supreme courts have restricted police officers from engaging in vehicle searches and seizures based solely upon smelling the odor of marijuana. In an even more sweeping rebuttal to pretextual stops, the Oregon Supreme Court ruled that police are no longer allowed to stop motorist for an equipment failure or failure to signal and then ask questions that are unrelated to that traffic violation, such as consent to a search for weapons and drug paraphernalia.[27]

In 2017, Texas State Senators John Whitmire and Garnet Coleman introduced the Sandra Bland Act. The initial bill, named after the tragedy resulting in the death of Sandra Bland, addresses racial profiling during traffic stops by banning police from engaging in pretextual stops and limiting police searches of vehicles.[28]

In the most comprehensive action addressing bias and racial profiling within traffic stops, the Philadelphia City Council has put forth the Driving Equality Bill, which will effectively ban police traffic stops for minor violations.[29] The motorist would Instead receive a citation in the mail based upon information collected from their license plate.

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[23] Michael M Santiago, "Police 'Pretext' Traffic Stops Need to End, Some Lawmakers Say," *Pittsburgh Post-Gazette* via AP September 3, 2020, www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say?amp=1

[24] "Senate Bill no. 5029," Virginia Legislative Information System (General Assembly of Virginia, August 18, 2020), https://lis.virginia.gov/cgi-bin/legp604.exe?202%2Bful%2BSB5029%2Bhil

[25] Justin Fenton, "Maryland's Highest Court Affirms That Police Can't Use the Smell of Marijuana to Search and Arrest a Person," *Baltimore Sun*, baltimoresun.com, July 29, 2020, www.baltimoresun.com/news/crime/bs-md-cr-marijuana-car-searches-20200728-h2cxldpcovbjhcb5hj4sugygoe-story.html

[26] The Associated Press, "Pot Smell Alone Can't Form Basis for Vehicle Search, Pa. Court Rules," October 3, 2020, https://www.pennlive.com/news/2020/10/pot-smell-alone-cant-form-basis-for-vehicle-search-pa-court-rules.html

[27] Marsha Mercer, "Police 'Pretext' Traffic Stops Need to End, Some Lawmakers Say" *Pittsburgh Post-Gazette* via AP, September 3, 2020, www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/03/police-pretext-traffic-stops-need-to-end-some-lawmakers-say?amp=1

[28] Jolie McCullough and Cassandra Pollock, *"The Texas Lawmakers Who Led the Sandra Bland Act Are Pushing to Reinstate the Police Reforms Stripped from Their Original Bill,"* www.texastribune.org/2020/06/09/texas-sandra-bland-act-police/

[29] Aaron Moselle, *"Philly City Council Bill Would Ban Police Traffic Stops for Minor Violations,"* October 27, 2020, https://whyy.org/articles/philly-city-council-bill-would-ban-police-traffic-stops-for-minor-violations/

Proposed Model for All Long Island Counties & Townships

Using Virginia and Philadelphia as models,[30] we propose that the writers of the Police Reform and Reinvention Plans and Long Island legislatures push to pass Driving Equality legislation that bars police departments from engaging in traffic stops for minor traffic violations. Specifically, the legislation will include a framework, similar to that stemming from Virginia:

> No citation for a violation of any ordinance enacted pursuant to this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.
>
> No law-enforcement officer may lawfully search or seize any person, place, or thing solely on the basis of the odor of marijuana, and no evidence discovered or obtained as a result of such unlawful search or seizure shall be admissible in any trial, hearing, or other proceeding.[31]

Additionally, clauses similar to those found in Philadelphia's Bill should be added, indicating the following:[32]

a. Police or other authorized law enforcement officers shall not initiate a motor vehicle stop for violation of one or more of the following sections of state or city motor vehicle code:
   1) Registration of vehicles
   2) Violations regarding vehicle lighting equipment
   3) Sun screening and other materials prohibited, in which the view is obstructed by items suspended from the rearview mirror or on the dashboard.
   4) Operation of a vehicle without official certificate of inspection.

b. Unless the totality of the circumstances present a wanton or willful disregard for the actual safety of people or property, police or other authorized law enforcement officers shall not initiate a motor vehicle stop for violation of one or more of the following sections of state or city motor vehicle code:
   1) Infractions related to Traffic Signals
   2) Duties at Stops Signs
   3) Duty to Stop at Stop Signs
   4) Obedience to No-Turn Signs
   5) Obedience to Official Traffic-Control Devices

Please review the specific legislation from Virginia (see **Bill #5029**) and Philadelphia (see **Modifications to Title 12**) to support the development of targeted legislation for Long Island. Until this legislation is passed by Long Island legislatures, Police Commissioners should immediately develop internal policies barring officers from engaging in pretextual stops.

Until this legislation is passed by Long Island legislatures, Police Commissioners should immediately develop internal policies barring officers from engaging in pretextual stops.

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[30] City of Philadelphia, "Proposed Modifications to Title 12," accessed January 8, 2021, https://www.scribd.com/document/481844015/Proposed-Modifications-to-Title-12

[31] "Senate Bill no. 5029," *Virginia Legislative Information System*, General Assembly of Virginia, August 18, 2020, https://lis.virginia.gov/cgi-bin/legp604.exe?202%2Bful%2BSB5029%2Bhil

[32] City of Philadelphia, "Proposed Modifications to Title 12," accessed January 8, 2021, https://www.scribd.com/document/481844015/Proposed-Modifications-to-Title-12

2. Explore Options to Increase Police Efficiency by Leveraging Unarmed Traffic Officers to Enforce Routine Traffic Laws and Respond to Traffic Incidents

The writers of this proposal are charging Long Island's governmental officials to rethink and reimagine the role of policing for the betterment of public safety and law enforcement. The enforcement of traffic laws by police officers is often complicated by the other duties that police departments hold. Police officers are formally identified as *"peace officers,"*[33] and accompanying this title, they are charged with maintaining public peace. However, the maintenance of peace is a difficult responsibility when the scope and fundamental nature of various criminalized behavior differs significantly.

At its core, routine traffic code violations are a public safety issue that affects hundreds of thousands of drivers each year.[34] In Suffolk County in 2019, nearly 25% of all police service responses to 911 calls were due to traffic stops, not including motor vehicle accidents, which comprise an additional 9% of total police service responses.[35] In total, nearly one-third of all police service responses were due to traffic violations and vehicle-related incidents.

To understand good policing, we must first define the role of police officers and their departments. The governor's guidance accompanying Executive Order 203 specifically stated that local governments should review the responsibilities charged to police departments.[36] As it stands, society has recognized that police cannot be the only regulatory, law enforcement body that protects public safety. Police are not involved in all areas where laws are broken and a police response is not always necessary. For example, restaurants who must adhere to health codes are not policed by police departments; instead, they are overseen by health inspectors who issue violations when codes are not adhered to and, in extreme cases, can shut restaurants down. Parking enforcement officers, commonly called *"Meter Maids"*, also have the responsibility to issue citations to vehicle owners who have illegally broken parking ordinances, as well as confiscate property by requiring a vehicle to be towed. These officers are unarmed peace officers who are not charged with the full responsibilities given to police officers as it relates to crime investigation, detainments, and arrests.

In contrast to routine traffic violations, violent criminalized behavior and felonious activities are conducted by a small percentage of the population.[37] The disproportionate percentage of the population that will violate a routine traffic law compared to the percentage of those that commit an invasive or violent crime should cause society to rethink the enforcement structure of public safety traffic laws. Long Island has the opportunity to lead in implementing such separation.

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[33] "NY Laws," Article 2 | Criminal Procedure Law | Peace Officers, accessed January 8, 2021, http://ypdcrime.com/cpl/article2.htm

[34] David M. Schwartz and Matt Clark, "Newsday Analysis: Suffolk Police Stopped, Searched Minority Drivers at Higher Rates," *Newsday*, October 21, 2020, https://www.newsday.com/long-island/investigations/police-traffic-stops-1.50041710

[35] Suffolk County Police Department, "Communications Section - 911 Call Center," accessed January 7, 2021, https://suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/911%20Call%20Center%20Data.pdf

[36] NY State Police Reform and Reinvention Collaborative: Resources and Guide for Public Officials and Citizens. Aug. 2020., page 9 https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Police_Reform_Workbook81720.pdf

[37] Suffolk County Police Department, "Task Force Meeting #8: Mental Health Response," Suffolk County Police Reform & Reinvention Task Force: TF Meetings, December 4, 2020, pg. 4, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Mental%20Health%20Presentation.pdf

By decoupling police departments with traffic enforcement and incident reporting, local governments would be increasing police efficiency and specialization. Police departments are responsible for investigating serious crimes that require resolution and justice; routine traffic enforcement takes them away from this important police work that only they can oversee. Currently, Suffolk County police spend approximate 4% of their time responding to violent crimes (Homicide, Robbery, Rape, and Aggravated Assault) and 15% of their time responding to other *"law enforcement"* incidents.[38] Assuming that crime clearance rates on Long Island follow nationwide trends, nearly 54.5% of violent crimes and 82.4% of property crimes remain unsolved.[39]

More importantly, the coupling of armed police officers and traffic enforcement makes the public less safe. According to data from the Stanford Open Policing Project, in 2015, 11% of all fatal shootings by police occurred during traffic stops.[40] By including traffic enforcement as a part of police responsibilities, local governments are indirectly supporting police department utilization of routine traffic violations as pretext to investigate more serious crimes (See Section I regarding benefits of eliminating pretextual stops). This practice is often accompanied by what is called *"fishing"*, where police departments utilize traffic stops in the manner of *"stop-and-frisk"* in an attempt to deter more serious crimes and catch motorists who are carrying weapons or drug paraphernalia.[41] However, research shows that the likelihood of criminal evidence being found is low, and that illicit drugs are normally found only in small quantities.[42]

Suffolk County's Finn Institute's report showed that 57% of all vehicle searches were unsuccessful in recovering any drugs, paraphernalia, or weapons upon engaging in a search.[43] This means that the Suffolk County police department subjects community members to lengthy and invasive vehicle searches based upon the violation of a basic traffic stop, and yet, more than half the times these searches are unsuccessful in finding any contraband that could be considered criminal evidence.

The data regarding unsuccessful searches only becomes more disheartening when race is introduced: where police racial bias clearly increases the amount of searches performed in communities of color, and lowers the success rates of those searches' results. As mentioned earlier in this report, Black and Hispanic folks are 16% more likely, and Black drivers are twice as likely than white drivers to be searched during a traffic stop, and yet police officers are less likely to find contraband when searching Black and Hispanic community members.

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[38] ibid.

[39] Michelle Mark, "US Police Don't End up Solving Most Crimes," *Insider*, Insider, June 22, 2020, https://www.insider.com/police-dont-solve-most-violent-property-crimes-data-2020-6

[40] Meg O'Connor, Brian Krans, and Brandon Soderberg, "What Traffic Enforcement Without Police Could Look Like," *The Appeal*, accessed January 28, 2021, https://theappeal.org/traffic-enforcement-without-police/

[41] "New Era of Public Safety: A Guide for Fair, Safe, and Effective Community Policing," n.d. The Leadership Conference on Civil and Human Rights. doi: https://civilrights.org/wp-content/uploads/Policing_Full_Report.pdf p. 126

[42] Sarah A Seo, "A Path to Non-Police Enforcement of Civil Traffic Violations" Data for Progress & The Justice Collaborative Institute, August 2020, https://tjcinstitute.com/wp-content/uploads/2020/09/non-police-enforcement-of-civil-traffic-violations.pdf pg. 3

[43] Robert E. Worden, et al. "Traffic Stops by Suffolk County Police," Suffolk County Police Department, https://www.suffolkpd.org/Portals/59/scpd_pdfs/tstop/2018TStopSummaryReport.pdf pg. 23

The Myth of The Traffic Stop Danger Narrative

Proponents of utilizing armed police officers to enforce basic traffic laws often turn to the false belief that armed law enforcement is needed due to the level of danger that occurs with traffic stops. The premise that routine traffic stops are fraught with danger is a myth. According to the Michigan law Review study, *"2019 Policing, Danger Narrative, & Routine Traffic Stops"*, an officer is killed during a routine traffic stop 1 in every 6.5 million stops. This accounts for 0.000015% of traffic stops.[44] Despite the low odds of danger to police during these stops, police are often trained to have a *"warrior mentality"* which focuses on the worst possible scenario where each traffic stop presents a potential danger.[45] This fear can result in the escalation of a routine traffic stop, and poses a significant danger to motorists, as exemplified in the murders of Philando Castile and Sandra Bland.

Disassociating the duty of enforcing routine traffic laws from armed police will make traffic stops safer for both motorists and law enforcement. Studies examining the danger to police officers during traffic stops found that nearly a quarter of all cases where a police officer was assaulted occurred after the officer invoked police authority.[46] This means going beyond basic protocols such as asking the motorist simple questions or running a records check, to escalating actions such as attempting to restrain the motorist, ordering the motorist out of the vehicle, touching or attempting to arrest the motorist, or engaging in a search of the vehicle.[47]

The previously mentioned actions where police authority is invoked would never be undertaken by an unarmed traffic officer. Instead, this unarmed traffic officer's sole aim is to enforce traffic law and maintain road safety, not engage in other criminal investigations. Additionally, via public education campaigns that would commence prior to the development of a force of unarmed traffic officers and continue throughout its development, motorists who commit a traffic violation and yet who may have outstanding criminal warrants would be less threatened by a civilian traffic force because this force would not assert traditional police authority.

The benefits of dissociating police departments from routine traffic enforcement is clear. It will restrict pretextual investigative stops that drive incidents of racial bias, mitigate the mistrust that occurs between communities subjected to unsuccessful searches disingenuously based on a routine traffic violation, and deter escalations between motorists and law enforcement due to issues unrelated to the traffic violation itself. Again, the purpose of this proposal is to understand traffic enforcement as a necessary feature of ensuring road and public safety for all, not an investigative panacea for identifying and deterring all criminalized behavior.

By removing armed police from traffic stops and replacing them with unarmed traffic officers dedicated to road safety, Long Island would be undoing systems currently built on systemic racism and bias, thereby helping to minimize danger faced by all community members who drive on Long Island's roadways.

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[44] Jordan B. Woods, "Policing, Danger Narratives, and Routine Traffic Stops," 117 *Mich. L. Rev. 635*, 2019, https://repository.law.umich.edu/mlr/vol117/iss4/2 pg. 640

[45] Sarah A Seo, "A Path to Non-Police Enforcement of Civil Traffic Violations," The Justice Collaborative Institute, August 2020, https://tjcinstitute.com/wp-content/uploads/2020/09/non-police-enforcement-of-civil-traffic-violations.pdf pg. 4

[46] Jordan B. Woods, "Policing, Danger Narratives, and Routine Traffic Stops," 117 *Mich. L. Rev. 635*, 2019, https://repository.law.umich.edu/mlr/vol117/iss4/2 pg. 640

[47] ibid.

Saving Money with Unarmed Traffic Officers

Police officers rightfully deserve to be well-compensated for their work. As many pro-police advocates will point out, the job requirements of an officer mandate that, if necessary, the officer is placed directly in the line of danger in order to quell a dispute, keep the peace, and maintain a safe and just environment. Across the country, police officers are the one of the few state-sanctioned entities that are given a lethal weapon and granted the power to use the full lethality of that weapon in subduing an American community member. It is a job that comes with tremendous responsibility and a job that can come at a very high cost.

The greater responsibilities and risks of the police officer position comes with an increased salary compared to other public servant positions. In 2018, the average city employee salary across Long Island was $37,482.[48] Looking deeper into traffic-specific salaries, we find that the average salary for an employee at the Traffic Violations Agency was $51,728 in Suffolk County.[49] For comparison, in that same year, the average Nassau County police officer earned $104,263[50] and the average Suffolk County police officer earned $154,477.[51] These salaries; however, do not even include many additional monetary and supplemental benefits. In 2018, 85% of Suffolk County's 1,277 public employees and 91% of Nassau County's 656 public employees who earned in excess of $200,000 were employed by the police department. Even these salaries pale in comparison to the high compensation provided to retired officers in Suffolk County and Nassau County, which reached up to $597,946 and $555,842, respectively, in 2017[53].

Utilizing publicly reported data from different cities across the nation, The New York Times wrote an exposé showing that police spend approximately 15-20% of their time responding to traffic incidents.[54] As previously mentioned, in Suffolk County nearly one-third of all police service responses are due to traffic-related violations and incidents.[55]

Assuming that the average Nassau and Suffolk County's officers spend roughly 20% of their time regulating traffic, then the two counties spend roughly $20,852 - $30,895 per officer to engage in part time traffic-related enforcement. With 2,400 and 2,349 police officers in Nassau and Suffolk County respectively, this would equate to total amounts of $50.0 million to $72.6 million[56]

A deeper analysis is necessary to determine the exact costs of police involvement within traffic enforcement and incident reporting, as well as the cost to develop an unarmed force of traffic officers who are solely deemed peace officers without the full authority given to the title of police officer. Given key salary differences between police officers and most Long Island public employees, Long Island counties might gain more overall hours spent on enforcing traffic laws with the same or less funding that currently goes to the police departments to engage in this endeavor.

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[48] "Search Salaries for Long Island Town, City Employees," *Newsday*, Newsday, May 14, 2019, projects.newsday.com/payrolls/long-island/data/towns-city-payroll/

[49] "Year 2018 W-2 Compensation Report," Suffolk County Legislature Budget Review Office, February 20, 2019, https://www.scnylegislature.us/DocumentCenter/View/61468/02202019-Year-2018-W-2-Compensation-Report-PDF

[50] Celeste Hadrick, "Reports: Nassau Cops See Average Pay Fall Sharply," *Newsday*, Newsday, April 9, 2019, https://www.newsday.com/long-island/politics/nassau-police-salaries-1.29565307

[51] "Year 2018 W-2 Compensation Report," Suffolk County Legislature Budget Review Office, February 20, 2019, https://www.scnylegislature.us/DocumentCenter/View/61468/02202019-Year-2018-W-2-Compensation-Report-PDF.

[52] Candice Ferrette and Rachelle Blidner, "Suffolk Government's $200G Earners up 25% in Past Year," *Newsday*, Newsday, April 1, 2019, https://www.newsday.com/long-island/politics/nassau-suffolk-police-salaries-1.29141090

[53] David M. Schwartz and Candice Ferrette, "Nearly 1,000 Suffolk Workers Made $200G in 2017," *Newsday*, Newsday, March 26, 2018, https://www.newsday.com/long-island/politics/suffolk-county-salary-200-000-nassau-1.17655983

[54] Jeff Asher and Ben Horwitz, *"How Do the Police Actually Spend Their Time?,"* June 19, 2020, https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html

[55] Suffolk County Police Department, "Communications Section - 911 Call Center", accessed January 7, 2021, https://suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/911%20Call%20Center%20Data.pdf

Examples from Other Cities & Localities

Across the country, state and local governments are beginning to tackle the issue of traffic enforcement within police departments by developing unarmed civilian traffic enforcement agencies. Proposals for unarmed traffic officers to be responsible for routine traffic stops have been developed in Berkeley, CA; Cambridge, Massachusetts; St. Louis Park, Minnesota; and Montgomery County, Maryland.[57]

Berkeley, California is leading the way by passing legislation in July 2020 that would allow unarmed traffic workers to conduct traffic stops. [58] Their proposal charges the city with developing a Department of Transportation ("BerkDoT") that would bring a *"racial justice lens to traffic enforcement and the development of transportation policy, programs and infrastructure, and identify and implement approaches to reduce and/or eliminate the practice of pretextual stops based on minor traffic violations."*[59] Through BerkDoT, the city would lead the United States in systemic reform to traffic enforcement by having unarmed civil servants enforce routine traffic laws.

In addition to Berkeley, Cambridge, Massachusetts is beginning to pursue ideas that would lead to the creation of an unarmed civilian traffic force. As mentioned in this proposal, Policy Order #178 directly alludes to the increased tension and possibility of a violent outcome when an armed officer is charged to enforce a routine traffic violation. The order states:

"The presence of an armed police officer during a routine traffic stop raises the tension of the encounter unnecessarily and can itself lead to conflict, causing harmful stress to both parties and damaging the relationship between police and the community,"

Currently the city manager is researching how to implement this plan and is reporting back to the legislature.[60]

New Orleans, Louisiana is also making key progress in transferring traffic responsibilities from police. In an effort to free law enforcement from the time consuming task of engaging in routine responsibilities such as writing up crash reports, the city is pursuing legislation that would allow unarmed civilian traffic control officers to investigate traffic accidents.[61] If enacted, this reform will allow police officers to focus on non-traffic related work while bringing no additional cost to the city.[62]

The country is beginning to realize that not every issue and not every law requires police enforcement, specifically as it relates to maintaining safe roads and traffic procedures. It is time for Long Island to follow suit.

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[56] These estimates are the result of key assumptions regarding the number of hours spent by the average officer on traffic. The writers of this report are currently in the process of acquiring the actual data from Nassau and Suffolk County to determine the actual number of hours that the two counties spend engaging in traffic-related issues.

[57] Meg O'Connor, Brian Krans, and Brandon Soderberg, "What Traffic Enforcement Without Police Could Look Like," *The Appeal*, accessed January 31, 2021, https://theappeal.org/traffic-enforcement-without-police/

[58] Jordan B. Woods, Traffic Without Police, 73 STAN. L. REV. (forthcoming 2021) poseidon01.ssrn.com

[59] City of Berkeley, "City Council REVISED AGENDA MATERIAL for Supplemental Packet 2," December 15, 2020, https://www.berkeleyside.com/wp-content/uploads/2020/12/Item-7-Supp-CMO.pdf

[60] City of Cambridge, MA "The City Manager Look into Transferring Primary Traffic Enforcement Responsibilities from the Cambridge Police Department to Unarmed, Trained Enforcement Personnel in the Traffic & Parking Department, Department of Public Works, Health & Human Services, or Another Suitable Department," September 14, 2020, cambridgema.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=2656&MediaPosition=&ID=12362&CssClass

[61] Louisiana State Senate, "Louisiana Senate Bill No. 80: TRAFFIC. Authorizes Civilian Traffic Control Officer or Entity to Investigate Certain Traffic Accidents in Certain Parishes.," August 1, 2017, www.legis.la.gov/legis/ViewDocument.aspx?d=1029322

[62] Beau Evans, "Civilians Could Investigate Your next Fender-Bender, after City Green-Lights Plan," *The Times-Picayune,* NOLA.com September 13, 2017, https://www.nola.com/news/traffic/article_8df201da-d3b4-5e64-b8fb-a373e7de8c87.html

Proposed Model For All Long Island Counties and Townships

In Nassau and Suffolk County, we recommend that a task force is developed explicitly to explore how to transfer traffic enforcement, regulation, and accident reporting duties from armed police officers to unarmed traffic officers. This exploration may entail a variety of options, including:

1. The development of a civilian traffic agency that employs unarmed peace officers to enforce routine traffic laws, regulate traffic, and document and report traffic accidents. This traffic agency would not be connected to current police departments. The writers of this proposal recommend exploring avenues such as placing the unarmed traffic officer force within the counties' Traffic and Parking Violations Agencies. County-level Traffic and Parking Violations Agencies have long been charged with adjudicating traffic violations and maintaining automated traffic cameras. While Traffic and Parking Violations Agencies have traditionally been within the court system, the inclusion of an in-person traffic monitoring arm of the institution would fit comfortably under the agencies' mandate and purview.
2. The development of an unarmed traffic-focused unit within the police department. This unit would be the sole unit within the police department responsible for enforcing routine traffic laws, and policy would restrict the officers in the unit from enacting traditional police authority. This would include restricting the ability to carry weapons, such as a gun and stun gun, engage in criminal investigations, and arrest suspects. In alignment with the elimination of pretextual stops, police officers from other units would not be allowed to engage in routine traffic stops, except for limited exceptions. The traffic-focused unit could provide numerous benefits, including providing additional field training for rookie police officers who are learning how to engage community members without the threat of violence and the overexertion of authority. Additionally, a rotating unarmed traffic detail could provide veteran officers with a necessary break from the regular stressful routine that often accompanies police details.

Since these traffic officers would not have traditional police authority, they would not be able to engage in criminal investigative searches - thereby eliminating pretextual stops. However, in rare circumstances where criminal investigation is necessary, such as cases where drugs are in plain view during the traffic stop or the motorist is driving impaired or erratically, the unarmed traffic officer will be equipped via radio to call for traditional police assistance, similar to fire departments, EMTs, and other first responders. All traffic officer vehicles would also be equipped with a dashboard camera and license plate reader, so that in situations where an erratic driver drives away from a stop, the traffic officer may send the information to the police department for immediate follow-up and investigation.

In specific situations, traditional police officers will still be able to stop motorists. These include: when motorists are engaging in reckless driving and excessive speeding (above 30 mph above the posted speed limit), and when known alerts are put out by the county or police departments regarding criminal activity (such as amber alerts, stolen vehicles, or other crimes-in-progress) where the specific vehicle that is pulled over matches provided vehicle descriptions.

In any situation where an officer, whether a traditional police officer or a traffic officer, is citing and ticketing the public, there is the possibility of uncooperative traffic violators. To mitigate this issue, the agencies responsible for regulating traffic and the county should:[63]

- Prioritize the safety of traffic law enforcers, drivers, and the public. Utilizing the dashboard camera and license plate reader, in situations where a car drives off after a routine traffic stop or a peace officer is met with an uncooperative driver, a citation may be mailed to the owner of the vehicle and there is documented footage of the interaction.

- Train traffic officers in de-escalation tactics, thereby equipping them to handle uncooperative motorists. If it appears that motorists need more substantial mental health assistance, the traffic officers should be equipped to call the appropriate first responders for mental health.
- Launch a public education campaign managing the change to a non-police force that will maintain road safety and explain how cooperation with unarmed traffic officers is necessary to decrease the harm of systemic bias within policing.

For the first option presented in this component, in order for a force of unarmed traffic officers to be developed, it would be necessary to codify into state law a special provision allowing a non-police traffic agency to house peace officers in a similar fashion to the current Department of Motor Vehicles. As stipulated in Article 2, Section 1 of NY Criminal Procedure Law:[64]

> Investigators of the department of motor vehicles, pursuant to section three hundred ninety-two-b of the vehicle and traffic law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

Long Island county officials would work with New York State legislators to develop legislation that creates unarmed peace officers to enforce routine traffic laws and moving violations, which would be under the purview and management of the county government.

Implementation of a Pilot and Phased in Approach

In an effort to implement this proposed model in a manner that creates a smooth transition from police enforcement of routine traffic laws to unarmed traffic enforcers, the writers of this proposal recommend that Long Island's local governments take a staggered approach to implementation. This would include the following:

1. **Development of a task force:** The task force would be charged with researching the various options to develop an unarmed traffic force, identifying specific details necessary for implementation, and creating a 3 to 5 year implementation plan and timeline. This task force should aim to answer the following questions:
   a. What legal issues need to be addressed in order to allow civilian traffic officers to stop a vehicle for a moving violation?
   b. Is the Traffic and Parking Violations Agency the best agency to house this new unarmed traffic force? If not, which agency is currently best situated or does a new agency need to be created?
   c. How should the unarmed traffic force interact with police departments and traditional police? Which traffic violations will require police intervention?
   d. What is the process, timeline, and logistics for implementation?
2. **Develop a Pilot:** In the initial phase of implementation, pilot projects should be developed that create a small group of unarmed traffic officers to enforce routine traffic laws. These traffic officers would enforce traffic laws concurrently with police departments. In depth research should be conducted to determine differences in the level of bias and escalation in traffic stops that has occurred from the police department and unarmed traffic force. Additionally, projections should be developed for funding and scaling the project.

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[63] Sarah A Seo, "A Path to Non-Police Enforcement of Civil Traffic Violations," The Justice Collaborative Institute, August 2020, https://tjcinstitute.com/wp-content/uploads/2020/09/non-police-enforcement-of-civil-traffic-violations.pdf pg. 4

[64] "NY Laws," Article 2 | Criminal Procedure Law | Peace Officers, accessed January 8, 2021, http://ypdcrime.com/cpl/article2.htm

3. **Funds:** The task force charged to research and develop this new traffic agency should be specifically focused on providing the upfront resources necessary to start the unarmed traffic force and the process in which funds will be redistributed from current police departments into the new traffic agency. This funding should be aligned with the development and implementation plan. We recommend that the county governments leverage the natural attrition of retiring police officers to redirect funds into the unarmed traffic agency, as well as steering funds and resources from incoming police cohorts to the new agency.
   a. In years 3 to 5, funds that normally are intended for police departments should be progressively redirected to the unarmed traffic agency in manner that corresponds with the cost of police involvement in traffic enforcement. During this period, policies should be developed that diminish the role of police officers in enforcing routine traffic laws. As the police department phases out of enforcing traffic laws, a new equilibrium will occur in which funds previously directed to the police will drive the operations of the unarmed traffic agency.
4. **Collective Bargaining:** When applicable, local officials should leverage collective bargaining with unions that represent police officers to renegotiate responsibilities of police officers embedded within their contract, specifically related to traffic enforcement, regulation, and incident reporting.
5. **Public Education:** The creation of a new unarmed traffic force represents a bold and necessary structural reform to promote road safety for all community members. Local Long Island governments will need to invest early on in an education campaign to effectively manage the change for the public. During the implementation process, steady reports as well as targeted public service announcements should be made available so that the public is aware of and understands the change in responsibilities of police officers, the development of unarmed traffic officers, and the impact that this will have on their daily lives.

Key considerations and obstacles

- Bias cannot be fully eliminated from any agency that relies on human discretion, therefore monthly data reports with metrics that detail who has been stopped must be submitted and monitored from the police department, as well as, the civilian traffic agency.
- Negotiations will need to be made between local government agencies and labor unions that represent law enforcement and civil servants so that enforcement of traffic laws and reporting of traffic incidents are placed under a civilian traffic agency.
- As police man-hours decrease due to officers no longer enforcing traffic laws, police efficiency and specialization to engage in targeted criminal investigations will increase. This increased efficiency may lead to a reduction in the amount of needed police officers. Given this, we recommend redirecting recruits from the police department into the civilian traffic agency.
- Traffic Safety Agents will not drive police cars or wear police uniforms. The counties should re-purpose resources, such as vehicles, to be utilized by the civilian traffic agency.

3. Commit to Data Transparency Regarding Traffic Violations & Enforcement

The collection and public provision of law enforcement data, particularly related to traffic stops, is a vital component of earning and maintaining community trust. Traffic stops are the primary mechanism in which most American community members have interactions with law enforcement. It is vital that police departments, and any civilian agency that engages in traffic stops, maintain an accurate, comprehensive

database and reporting mechanisms that allows the public to be confident in the operations and practices of the agency, and allows the agency to engage in continuous improvement practices.

The benefits of having and maintaining a robust mechanism for collecting, analyzing, and regularly sharing traffic stop data is clear. Specifically, the collection and sharing of this data enables the following:[65]

- The ability to implement real time data inquiry that allows critical questions to be answered accurately and immediately.
- The ability to examine, research, and continuously improve practices and policies, as well as direct resources to the most needed areas, thereby increasing effectiveness and efficiency. The collection of accurate comprehensive data is a key step in discerning whether stops are achieving public and road safety objectives.
- The ability to directly and deliberately mitigate and address the occurrence of racial disparities and disproportional outcomes related to traffic stops. Through a robust collection method, any disparities could be measured at the systemic level, geographic level, and the level of individual traffic enforcers. At a systemic level, governmental officials, law enforcement agencies, and the general public would have a more comprehensive understanding of how stops impact communities and provide real time progress monitoring to address disparities. At an individual traffic enforcer level, agencies would be able to better assess the conduct of individual officers.
- The building of community trust and respect by allowing examination of traffic stop data in a transparent manner by external groups and by the at-large public.

Across Long Island's counties and townships, there is a clear need for improved data collection. In the Finn Institute's report of traffic stops in Suffolk County, the researchers noted they could not rely on the location data collected by the Suffolk County Police Department because of a faulty system that captured the location where the data was inputted, often department precincts, instead of where the incident occurred.[66] The report continued:

> SCPD sector appeared to be a largely but not completely reliable indicator of location, even at a level of geographic precision adequate for our analytic purposes. The sector field was empty for 22,609 stops. Some values for sectors (e.g., COPE2, CSU7) do not appear on an SCPD sector map.[67]

In Nassau County, the police department has proven to be unable to provide any key pieces of data to engage in comprehensive analysis of traffic stop data. During the reform process, the county has developed the Community Collaborative Task Force (CCT) as an initiative to involve the community in requesting applicable data so that they can make viable recommendations to inform the plan for reinventing and reimagining policing. Across multiple avenues, members of the CCT have spoken out regarding the lack of transparent data being provided to the task force with the rationale that the department does not have the appropriate mechanisms to collect such data. In conversations with the NCPD, the task force was told that they couldn't even receive a comprehensive list of the indicators that are being captured by the county's data systems. Unfortunately, the lack of transparency regarding the process from Nassau governmental officials, as well as, a number of harms conducted against community members on the CCT caused over a dozen community members to resign from the task force in protest to the disingenuous outreach.

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[65] Marie Pryor et al., "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities," Center for Policing Equity & Policing Project at New York University School of Law. accessed January 12, 2021, pg. 9-12 https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

[66] Robert E. Worden, et al. "Traffic Stops by Suffolk County Police," Suffolk County Police Department, https://www.suffolkpd.org/Portals/59/scpd_pdfs/tstop/2018TStopSummaryReport.pdf pg. 2

[67] Ibid. 3

The importance of having such data, particularly related to traffic stops, goes beyond organizational efficiency. The lack of data indicates that current law enforcement agencies are unable to utilize data and evidence to drive their decision-making. They are unable to understand issues of disproportionality that occur within specific communities, and effectively address those issues. They are unable to leverage evidence as a means to simply improve their practice and services given to the public. This is a major issue that Long Island can no longer ignore.

Examples from Other Cities & Localities:

Across the country, states and local governments have recognized the importance of collecting, maintaining, and leveraging high-quality traffic stop data. Most recently, New York State Senate passed the Police Statistics and Transparency (STAT) Act which would require law enforcement agencies to collect and report on key data indicators, including:[68]

- The total number of people who die during an interaction with police or in police custody
- The race, ethnicity, age and sex of anyone who dies during an interaction with police or in police custody
- The location of law enforcement activity and arrest-related deaths
- The total number of arrests and tickets for violations and misdemeanors
- The race, ethnicity, age and sex of anyone charged with a violation or misdemeanor

Proposed Model

The writers of this proposal support the People's Plan's recommendation to implement a county-wide Data and STAT Act (Section 3, Part 3: The STAT Act / Data Collection). Inclusive in this would be the implementation of key data collection, analysis, and reporting practices that a traffic agency and other law enforcement agencies can implement. The report, **Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities** by the Center for Policing Equity, Policing Project at New York University School of Law, and California Department of Justice describe in detail the best practices for collecting, analyzing, and publishing traffic stop data. This report shares gold standard questions in four key areas that law enforcement should be able to accurately and comprehensively answer based upon collected data. These include the quoted questions below:[70]

A. Measuring Effectiveness and Policing Strategies

1. Have crime rates increased or decreased in areas that have been the subject of recent proactive targeted enforcement?
2. Have citizen complaints of racial or identity profiling increased or decreased in areas that have been the subject of recent proactive targeted enforcement?
3. Have calls for service increased or decreased in areas that have been the subject of recent proactive targeted enforcement?

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[68] Brad Hoylman, "Senate Passes Hoylman's Police STAT Act, Requiring Public Reporting Of Deaths In Police Custody And Racial Disparities In Law Enforcement Practices," The New York State Senate, August 4, 2020, https://www.nysenate.gov/newsroom/press-releases/brad-hoylman/senate-passes-hoylmans-police-stat-act-requiring-public

[69] Marie Pryor et al., "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities," Center for Policing Equity & Policing Project at New York University School of Law. accessed January 12, 2021, pg. 9-12 https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

[70] ibid

B. Assessing Group Disparities

1. Are there racial disparities in decisions to use force among perceived race of persons stopped when controlling for age, gender, offense type, and neighborhood context?
2. Are there racial disparities in the yield rates of contraband found among perceived race of persons stopped when controlling for neighborhood context?
3. Are there racial disparities in the use of de-escalation techniques among perceived race of persons stopped when controlling for gender and neighborhood context?

C. Assessing the Degree of Group Representation

1. Are there racial disparities between the number of vehicle stops across perceived race of persons stopped compared to their representation in the population?
2. What is the proportion of the number of citizen complaints alleging racial or identity profiling to the number of traffic stops in the community when controlling for neighborhood context?

D. Assessing Outliers in Officer Behavior

1. Are some officers responsible for a disproportionate amount of stops?
2. What common factors exist among officers with the highest rate of use of force incidents when controlling for offense type and neighborhood context?
3. What common factors exist among officers with the highest number of citizen complaints when controlling for offense type and neighborhood context?

To answer these questions, inclusive in this report are specific data indicators that each traffic enforcement agency should aim to collect. These indicators include the following areas:[71]

- The traffic officer committing the stop
  - Individual characteristics (e.g., race, age, gender), excluding PII
  - Agency characteristics (e.g., beat, assignment, rank, years on the force)
  - Unique identifier
- The person(s) stopped
  - Individual characteristics (e.g., perceived race, age, gender)
  - Unique identifier
- Details of the stop
  - Key details (date, time, location, call for service)
  - Rationale for stop (e.g., moving violation, matched suspect description*, equipment violation)
  - Unique identifier

[71] Marie Pryor et al., "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities," Center for Policing Equity & Policing Project at New York University School of Law. accessed January 12, 2021, pg. 9-12 https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

- Actions taken by the traffic officer during the stop
  - Rationale for search* (e.g., plain view, incident to lawful arrest)
  - Consent obtained* (e.g., asked for consent, obtained consent])
  - Result of search* (e.g., contraband found, weapons found)
  - Property seizure*
- Use of Force*
  - Type of force used
  - Injury (to person or to officer)
- Outcomes
  - Enforcement outcome (e.g., no action, citation, warning, voucher, arrest*)
  - Arresting charge* (use local, state, and federal codes

*Indicates areas and indicators that would only be collected by police departments, not a civilian traffic force

Implementation Resources & Support

The nationally-renowned organization, Center for Policing Equity (CPE), has developed partnerships with local police departments, governments, and communities to help officials revamp and transform their data collection and sharing practices. CPE current houses the largest collection of standardized police behavior data throughout the country via the National Justice Database (NJD).[72] The organization works with police departments across the country to share their data with CPE according to NJD standards.[73] Through the sharing of this data, local departments improve their data practices and CPE will engage in an analysis of police department data to help the department understand any racial disparities in its outcomes, as well as, the degree in which these racial disparities are driven by inequitable practices.[74]

In addition to the National Justice Database, the Center for Policing Equity has developed COMPSTAT for Justice (C4J) to support police departments in implementing a process that leverages data to reduce bias and create solutions for racial disparities.[75] This work is provided at no cost to communities. The writers of this proposal recommend that county and local officials work with CPE or other institutions to improve upon their data-driven practices to reduce racial disparity.

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[72] "Center for Policing Equity, Impact," Center for Policing Equity, accessed January 12, 2021, https://policingequity.org/what-we-do/local-impact

[73] "Center for Policing Equity, National Justice Database," Center for Policing Equity, accessed January 12, 2021, https://policingequity.org/what-we-do/national-justice-database.

[74] ibid

[75] "Center for Policing Equity, COMPSTAT for Justice," Center for Policing Equity, accessed January 12, 2021, https://policingequity.org/what-we-do/compstat-for-justice.

Supplemental Components of the Proposal

4. Leverage Unmanned Alternatives to Traffic Enforcement & Safety

This proposal aims to transform the traditional view of traffic enforcement from an issue of criminalization to one of public safety. In order to holistically ensure safer roads, communities must leverage all options at their disposal, including utilizing intelligent road design to minimize traffic violation.

There are several techniques that localities are using to reduce traffic violations without a police presence. These include:

- Increasing the number of speed bumps on local roads to slow traffic
- Placing roundabouts in strategic locations to slow traffic and reduce vehicle crashes
- Increasing the yellow-light time to reduce red-light violations.

Leveraging Speed Bumps

Speed bumps are a common and proven mechanism to reduce speed on local roads. According to a report by the National Association of City Transportation Officials[76], speed bumps reduce speeds to 15-20 mph. Communities often place speed bumps in front of schools so that drivers must decrease their speed to ensure the safety of nearby children. Usually, accompanying speed bumps are pavement markings and warning signs that alert drivers to their presence.

Speed bumps also tend to be an affordable option for communities to consider when improving roading safety. According to HRG, an engineering company that does work designing roads, the average cost for a speed hump is merely $2,500.00.[77]

Strategic Placement of Roundabouts

Roundabouts are another key mechanism of road design that is used to slow traffic. These Roundabouts, according to HRG, can reduce speeds between 15 and 25 miles per hour and have been proven to be effective at reducing crash frequency within residential neighborhoods.[78] Unfortunately, the biggest downside of roundabouts is their cost, which ranges from $350,000 - $500,000.[79] Due to the size of this investment, they are most often considered when new road design is occurring.

Strategic Placement of Roundabouts

According to the National Motorists Association, increasing the yellow-light time is an easy way to reduce red-light violations.[80] This has been effective from coast to coast and has proven to prevent accidents and save lives. In a Texas study from September 2004, it was found that extending the yellow-

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[76] "Speed Hump," National Association of City Transportation Officials, July 24, 2015, https://nacto.org/publication/urban-street-design-guide/street-design-elements/vertical-speed-control-elements/speed-hump/

[77] Judy Lincoln, "Reduce Speeding with Speed Humps and Other Traffic Control Techniques," Herbert, Rowland & Grubic, Inc. July 3, 2018, https://www.hrg-inc.com/reduce-speeding-with-speed-humps-and-other-traffic-control-techniques/

[78] ibid.

[79] ibid.

light signal by 1 second yielded a 53% reduction in red-light violations.[81]

Red-light and Speed Cameras: Benefits & Issues

Red-light and speed cameras are certainly another way to monitor traffic without a police presence. The primary benefit of speed and red-light cameras is that they eliminate human discretion involved in determining who is violating traffic law. Depending on how and where they are placed, they can also decrease the amount of bias that occurs during traffic stops, and diminish the possibility of a needless escalation to violence that may potentially occur during a human-to-human interaction.

However, there are serious concerns regarding the implementation of red-light and speed cameras that cause the writers of this proposal to not advocate for their implementation on Long Island. These concerns include the following:

1. **Concerns for Bias:** As with over-policing of low income neighborhoods, red light and speed cameras are often disproportionately located in these under resourced areas, often leading to overrepresentation of low-income community members as the primary violators of traffic law. Any implementation of automated options for traffic enforcement must include a comprehensive equity analysis to determine placement of the cameras so that bias and disproportionality does not occur.
2. **Concern for Mission Creep:** There is a serious fear, backed by the American Civil Liberties Union (ACLU), that the data collected by red light cameras will be used for purposes other than tracking reckless drivers.[82] This can lead to a questionable overreach of police in utilizing data as a breach of privacy of community members. Already, there are examples of this overreach across the nation — similar systems have been used to capture the license plate numbers of thousands of law abiding persons, at the Texas-Oklahoma border, who were then subjected to inquiries about why they were crossing the border.[83]

The writers of this proposal agree with the ACLU that the expansion of red light camera systems on Long Island should be delayed until the due process and privacy issues they raise have been properly settled. If Long Island's governing bodies desire to introduce red-light and speed cameras, they should do so only after creating a small task force composed of community members, legal advocates, and traffic specialists that are able to thoroughly mitigate concerns of unfairness, inequity, and mission creep.

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[80] "Yellow Light Timing," National Motorists Association, July 18, 2018, https://www.motorists.org/issues/red-light-cameras/yellow-lights/

[81] ibid.

[82] "ACLU Urges Halt to Use of Red-Light Cameras Until Privacy and Fairness Issues Are Addressed Statement of Barry Steinhardt Associate Director, American Civil Liberties Union," American Civil Liberties Union, accessed January 17, 2021, https://www.aclu.org/press-releases/aclu-urges-halt-use-red-light-cameras-until-privacy-and-fairness-issues-are-addressed

[83] ibid.

Proposed Model for Nassau & Suffolk County

Unfortunately, the writers of this proposal do not have data related to the locations where frequent speeding occurs. Nevertheless, there are some key changes that we can make to help support road safety.

While not a good option for arterial streets, speed bumps are a good option for drastically decreasing the speed of traffic. Having speed bumps on local streets next to schools would decrease the incoming traffic and increase safety for children, families, and educators.

Additionally, according to the Finn Institute report for Suffolk County:

> **The Suffolk Intensified Traffic Enforcement (SITE) section conducts targeted enforcement in the high-speed corridors with high concentrations of fatalities, crashes, and aggressive drivers, and in other locations as designated by the Office of the Chief of Patrol or requested by precincts.**

We recommend that both Suffolk and Nassau County leverage data from their traffic departments, such as SITE, to determine the appropriate locations to engage in innovative, smarter road design. On many local roads, this may mean building speed bumps. On larger, arterial roads where accidents and red-light violations occur at specific intersections, the counties would benefit by increasing the yellow-light time of their traffic lights.

Finally, when engaging in road improvements of high-traffic, high-speed corridors, the counties should consider the development of roundabouts to maintain traffic safety.

Key Considerations

1. County officials should review the impact of unmanned alternatives on bicyclists and pedestrian traffic and plan changes accordingly to minimize negative impact.

5. Develop Equitable Models for Implementing Traffic Fees and Managing & Using Traffic Revenue

Municipalities depend on traffic fees for sizable revenue. Long Island is home to 10 of New York's top 25 revenue-generating town and village traffic courts. East Hampton is highest on the list — at No. 4 — with $3.3 million.[84] In 2017, according to the New York State Comptroller's Office, traffic court fines and fees from towns, villages and Suffolk and Nassau counties totaled $146 million, up from about $104 million in 2012.[85]

While these fees help provide vital services to Long Island residents, they often disproportionately impact low-income communities and communities of color. Fees from traffic infraction revenue, such as schemes for stacked ticketing and compounding fees, are known to disparately burden people with limited resources.

Additionally, the cycle of being repeatedly stopped for minor traffic violations falls heavily on the low-income communities and communities of color. At its worst, this can lead to deadly encounters for community members of color, especially African Americans.

Across the country, similar patterns have emerged regarding the woes of burdensome traffic fines and fees. Take the case of Philando Castile, who was shot by a Minnesota cop after being stopped for a broken taillight. As reported by NPR, before Castile was stopped and then killed by a St. Anthony police officer in Minnesota, he had incurred dozens of traffic stops, fines, and suspensions — adding up to more than $6,000 in fines through 46 police stops.[86]

In this all too familiar story, a troublesome pattern emerges: A low-income Black motorist is stopped. They can't afford to pay the fine. Their license is suspended. They're then stopped and fined for driving without a license. Again, they can't pay that fine. And so on. All along the way, these motorists are buried further into debt and punished with more penalties — just because they couldn't afford the first ticket that was given.[87]

In Ferguson, Missouri. After the murder of Michael Brown, the US Department of Justice investigated policing in Ferguson and the city's reliance on traffic fees was exposed. In one of the stories from Ferguson, an African-American woman who experienced financial difficulties and periods of homelessness over several years was facing a case stemming from 2007, when, on a single occasion, she parked her car illegally. She received two citations and a $151 fine, plus fees. From 2007 to 2010, she had been charged with seven Failure to Appear offenses for missing court dates or fine payments on her parking tickets. For each Failure to Appear in Court, she was issued an arrest warrant and imposed new fines and fees. From 2007 to 2014, the woman was arrested twice, spent six days in jail, and paid $550 to the court for the events stemming from this single instance of illegal parking. Court records show that she twice attempted to make partial payments of $25 and $50, but the court returned those payments, refusing to accept anything less than payment in full. One of those payments was later accepted, but only after the court's letter rejecting payment by money order was returned as undeliverable. Over seven years later, despite initially owing a $151 fine and having already paid $550, she still owed $541.[88]

On Long Island, these disparate outcomes are significantly highlighted in regards to the biased traffic enforcement against immigrants. Exemplifying this bias is the case of Carlos Barrientos, who received $9,000 in traffic tickets in a four-year period due to issues with not being able to produce a license and registration.[89] Mr. Barrientos was undocumented and therefore could not legally register his vehicle.

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[84] Craig Schneider "Long Island finds a cash cow: Traffic tickets," *Newsday*, Newsday, Dec. 2, 2018, www.newsday.com/long-island/traffic-revenue-1.24081944

[85] ibid.

[86] Eyder Peralta, Cheryl Corley, "The Driving Life And Death Of Philando Castile," *The Two-Way*, NPR, July 15, 2016, https://www.npr.org/sections/thetwo-way/2016/07/15/485835272/the-driving-life-and-death-of-philando-castile

[87] ibid.

[88] ibid.

Recent Progress in New York State Should Drive Further Action on Long Island

In its implementation, the suspension of drivers' licenses for unpaid traffic fines is simply state-sanctioned punishment for poverty. Driver's license suspensions for unpaid traffic fines or unanswered traffic tickets force Long Islanders to make an impossible choice: stop driving and lose access to work, food, and other basic necessities, or keep driving and risk a criminal charge, more fines and fees, and even jail time.

In dealing with this reality and the escalation of fees burdening low-income community members in California, a study was conducted by The Lawyers' Committee for Civil Rights of the San Francisco Bay Area. The study recommends that the state of California *"end the use of license suspensions as a collection tool for citation-related debt, allowing more people to work and pay their debts.*[90]" Additionally, the group also suggests an amnesty plan for Californians who have already had their licenses suspended — one that would restore their ability to drive and forgive the debt of *"the poorest Californians."*[91]

This recommendation and the wave of progress toward improving outcomes for community members have hit New York as well. Recently, the New York State Senate and Assembly have passed a bill to end the suspension of driver's licenses based on the failure to pay traffic ticket fines or fees.[92] This legislation also creates a payment plan system for drivers.

However, Long Island is able to leverage this progress at the state level, by reconstructing the traffic fines system that currently leads to financial hardship, increased criminalization, and potentially death for community members of color.

Supplemental to the previously stated components of the proposal, local Long Island governments should address and break the crippling cycle of overwhelming fees that drive community members into the criminal justice system. To ensure that equitable models for implementing traffic fees and managing and using traffic revenue, the writers of this proposal recommend the following actions:

- Install day-fines (see below) based on the income and wealth of violators
- Develop a voucher program for equipment failure
- Reinvest traffic revenue into under resourced Long Island communities.

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[89] Charles Lane, "Suffolk Struggles To Reform Discriminatory Policing Against Latinos," *WSHU Public Radio*, NPR, accessed January 12, 2021, https://www.wshu.org/post/suffolk-struggles-reform-discriminatory-policing-against-latinos-0#stream/0

[90] Sam Sanders, "Study Finds The Poor Subject To Unfair Fines, Driver's License Suspensions," *The Two-Way*, NPR, April 9, 2015, www.npr.org/sections/thetwo-way/2015/04/09/398576196/study-find-the-poor-subject-to-unfair-fines-drivers-license-suspensions

[91] ibid.

[92] Anthony Reyes, "Bill Passed in NY to End Driver's License Suspensions for Unpaid Fines and Fees," *WKBW Buffalo*, ABC 7, July 23, 2020, https://www.wkbw.com/news/state-news/bill-passed-in-ny-to-end-drivers-license-suspensions-for-unpaid-fines-and-fees#:~:text=NEW%20YORK%20(WKBW)%20%E2%80%94%20The,Andrew%20Cuomo%20to%20become%20law

Install Day-Fines Based on Motorist Income

The Lawyers Committee for Civil Rights' report additionally puts forth the idea that the cost of paying a ticket is too high for everyone, not just the poor. The Lawyers' Committee suggests that fines be based on an offender's ability to pay. Across the world, day-fines are a common type of traffic fine that is primarily based on the offender's financial income or wealth. These fines have the potential to introduce some fairness to a legal system that tends to show bias against the low-income community members.[94]

In Finland, fines from traffic violations, as well as other crimes and misdemeanors, are calculated by estimating the amount of spending money a traffic offender has for one day divided by two, resulting in what the state considers is a reasonable amount of spending money that a traffic fine could leverage. Then, based on the severity of the crime, the system determines how many days the offender must go without that amount.[95]

While this system may seem foreign to the modern U.S., in reality, it has been tested before within the country, increasing fairness in the criminal-justice system for community members. In 1988, the first day-fine ever in the U.S. was given in Staten Island, and the resulting year, about 70 percent of Staten Island's fines were day-fines.[96] Similar programs were started in Milwaukee and a few other cities.

A 1992 study of the Milwaukee test cases found promising results for both community members and the local governments. Overall, the researchers found the following:[97]

- On average, the use of day-fines resulted in substantially lower fines being imposed. For those given day-fines, the average fine imposed per case was $72, compared to an average of $112 per case when the fine was determined by the conventional method.
- The use of day-fines appears not to have reduced significantly the rate of nonpayment, this was particularly true for low-income community members.
- Community members given day-fines were also more likely to pay-in-full rather than submitting only a partial payment, even at the higher income levels, where day-fines are greater than conventional fines.
- The introduction of a day-fine system in municipal court did not result in any serious delays in processing cases. Other cases could be processed while the courts awaited the results of means investigations. The short delay required to conduct a means interview did not affect the operation of the courtroom.
- There were no detrimental effects on recidivism, meaning that installing day-fines did not incentivize traffic violations.

Additionally, if restrictions were removed regarding a floor and ceiling on the fine amount, such as is the case in Finland, day-fines could result in increased revenue to the local government. Instead, Milwaukee set a floor where violators were given a minimum $30 fine and a ceiling that capped the limit on high-incomer offenders based on statutory fine limits.

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[93] Sam Sanders, "Study Finds The Poor Subject To Unfair Fines, Driver's License Suspensions," *The Two-Way*, NPR, April 9, 2015, www.npr.org/sections/thetwo-way/2015/04/09/398576196/study-find-the-poor-subject-to-unfair-fines-drivers-license-suspensions

[94] Joe Pinsker, "Finland, Home of the $103,000 Speeding Ticket," *The Atlantic*, www.theatlantic.com, March 12, 2015, https://www.theatlantic.com/business/archive/2015/03/finland-home-of-the-103000-speeding-ticket/387484/

[95] ibid.

[96] ibid.

[97] Judith Greene and Charles Worzella, ed. Douglas C. McDonald "Day Fines in American Courts: The Staten Island and Milwaukee Experiments," National Institute of Justice, April 1992, https://doi.org/https://www.ncjrs.gov/pdffiles1/Digitization/136611NCJRS.pdf pg. 72-77

Develop a Voucher Program for Vehicle Equipment Failure

The primary role of traffic enforcement is not to punish violators, but instead to ensure road safety for communities and their members. This means that local governments should use a full scope of ideas and tactics to ensure public safety, including providing opportunities for community members to fix their vehicles when minor equipment failures occur.

As previously noted, in Suffolk County, nearly a quarter of all traffic stops for Black and Hispanic motorists were due to equipment failure.[98] Compounded with the issue of escalating fines and the spiralling cycle of traffic fees, equipment failure has the ability to be the spark that forces community members into the criminal-justice system. However, at its core, equipment failure and the inability to fix vehicle equipment is the result of poverty, not the intentional violation of traffic law.

Equipment vouchers provide the opportunity for local governments to react to minor equipment failure with support, not punishment. Recently, in Minneapolis, the local government and police department has changed its policy to provide repair vouchers to motorists for minor vehicle defects.[99] Currently part of the Lights On! program financed by the nonprofit group MicroGrants, an organization that partners with local organizations to promote economic self-sufficiency among lower-income residents, the program aims to minimize racial disparities in traffic stops and enforcement. Through the program, the repair vouchers can be redeemed at participating auto shops for issues such as replacing a bulb in a broken taillight.[100] On Long Island, a voucher program could be financed by leveraging any downsizing of police departments into a civilian traffic enforcement agency and utilizing revenue from traffic fines.

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[98] Robert E. Worden, et al. "Traffic Stops by Suffolk County Police," Suffolk County Police Department, https://www.suffolkpd.org/Portals/59/scpd_pdfs/tstop/2018TStopSummaryReport.pdf

[99] The Associated Press, "Minneapolis Police Can Give Out Repair Vouchers, Not Tickets," accessed January 12, 2021, https://www.usnews.com/news/best-states/minnesota/articles/2020-01-30/minneapolis-police-can-give-out-repair-vouchers-not-tickets

[100] ibid.

Implementing a Pilot for Day-Fines and Equipment Repair Vouchers

Long Island would greatly benefit from implementing innovative mechanisms for equitable enforcement of traffic fines and community friendly ways to fix minor vehicle equipment failure. For installing day-fine and implementing equipment repair vouchers, the writers of this proposal recommend that local governments develop a pilot approach. During this pilot, sanctioned research should be conducted to determine the degree of benefit to low-income Long Islanders in implementing day-fines and vouchers. Based on the research from the pilot, a task force should be developed to determine how to bring day-fines and equipment repair vouchers to scale in Suffolk and Nassau county.

Invest Traffic Revenue Into Under Resourced Long Island Communities

A key part of transforming the criminal-justice system and spiraling cycle of over-policing on low-income communities of color is to transform the justice paradigm from punishment to investment. To do so, any funds originating from fines and fees, particularly funds collected via the criminal-justice system, should be distributed to the most under-resourced communities through targeted reinvestment.[101]

Targeted investment from traffic revenue could be made in three key areas:

1. Investments in Black, Hispanic, and Indigenous communities through economic and educational opportunities and infrastructure so that these communities are equitably equipped with the resources and tools to succeed as any other community on Long Island.
2. Investments in community-based public safety approaches, programs, and mechanisms that are proactive in preventing crime, instead of entities that have a mandate to react after a crime has occurred.
3. Investments in systemic mechanisms that are more effective in reducing recidivism and criminality after a criminalized behavior resulting in harm has occurred. Specifically, systematize and scale restorative justice programs.

Through a participatory budgeting process, communities affected most by over-policing would have the opportunity to determine how to spend revenue. Through participatory budgeting, community members" input will make up for gaps in official knowledge of the local government, leading to better, more equitable and targeted solutions. This process is often utilized to ensure that historically disenfranchised and marginalized groups are able to participate and be heard from their governments.[102]

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[101] Beth A. Colgan, "Beyond Graduation: Economic Sanctions And Structural Reform," *Duke Law Journal*, scholarship.law.duke.edu, accessed January 12, 2021, https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4025&context=dlj pg. 1571

[102] "What Is PB?," The Participatory Budgeting Project, July 17, 2020, https://www.participatorybudgeting.org/what-is-pb/

Conclusion

Traffic enforcement has an enormous impact on the lives and livelihoods of Long Island's community members. It can affect their financial stability, their ability to hold jobs, and in the worst case scenario, their very safety. Across the United States, local officials, organizers, and community members have begun to rethink and reimagine how traffic laws are enforced. From Cambridge to Berkeley, Philadelphia to New Orleans, Suffolk County to Nassau County, one thing has become painfully clear — Traffic stops are riddled with bias. Through the research of the Traffic Enforcement Workgroup, the writers of this proposal have been unable to find a city or community where bias is not a factor in traffic stops, regardless of good intentions, anti bias training, or change in leadership. Blacks and Hispanics are pulled over, searched, arrested, and lose their lives at a greater rate than their white counterparts. Yet, a glimmer of hope is now found in the fact that all over America, community members and governmental leaders are standing up and speaking out to acknowledge this bias and are looking for new and creative ways to eliminate it. Collectively, we are at a moment in time where policing, and specifically traffic enforcement, must be transformed.

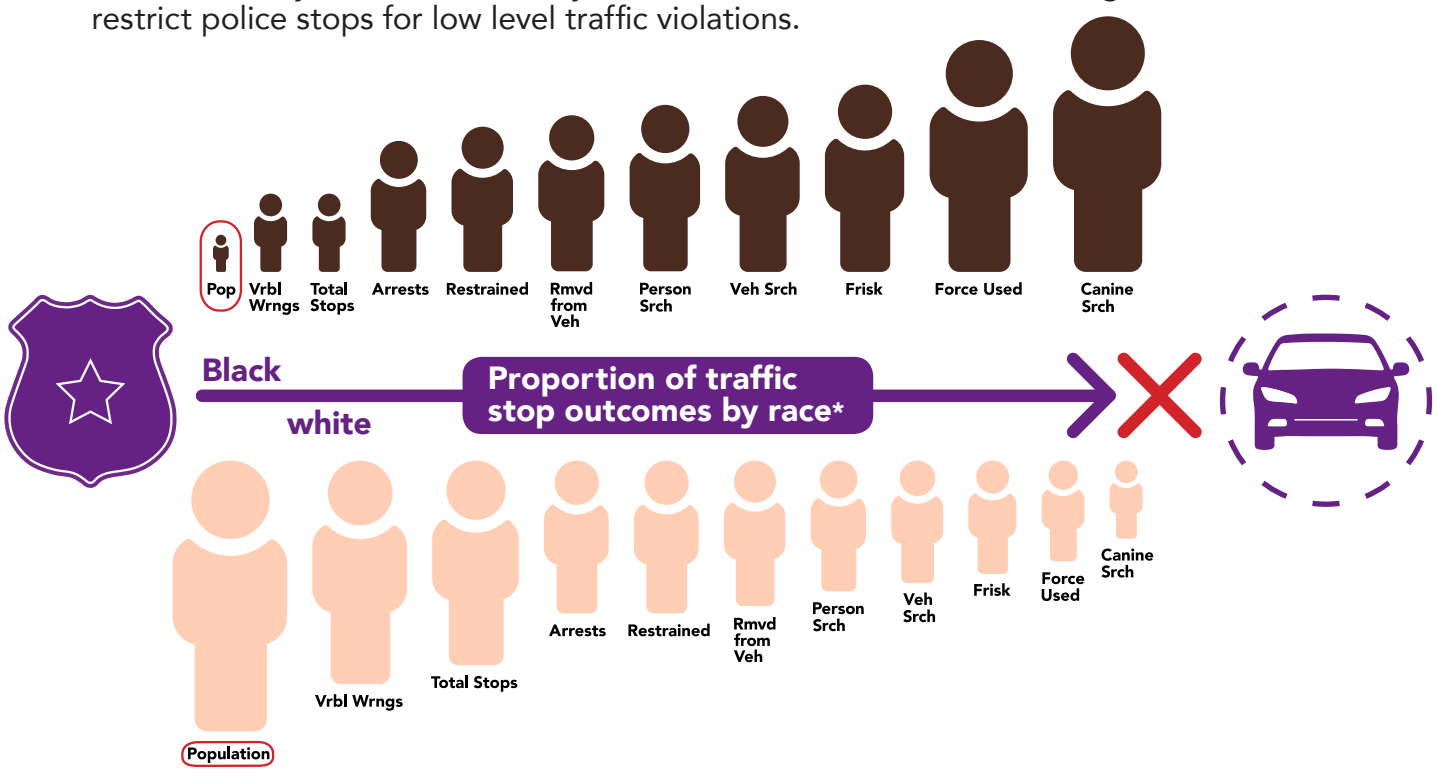
The components of this proposal are not new - they have been implemented or are soon to be implemented all over the country. Long Island is currently faced with a choice that will determine the moral and social direction of our communities. We can study this bias, acknowledge that it exists, and then continue to do what we have always done to mitigate it — maintaining the status quo — or we can join other forward-thinking communities by committing to structural reforms that make bias in traffic stops a mere stain of the past, and completely change the way we police our roads.

Based on our research and in-depth conversations with other groups looking into how traffic safety is managed, the writers of this report have developed a proposal that will increase police efficiencies and road safety for all community members. Too many Long Island communities suffer under a policing apparatus that assumes guilt by suspicion, and invades privacy under the pretense of safety. Simply studying this issue, which has already been well researched, or implementing training, regardless of intention, will not create the needed change. By barring police from engaging in pretextual stops, restricting warrantless searches, and developing an unarmed force of traffic officers to respond to and enforce issues regarding parking, speeding, equipment stops, and other traffic related incidents that bring the public and the police into contact, Long Island can finally become a bastion of justice and safety for all of its community members.

Transforming Traffic Enforcement

1. Bar police officers from engaging in **Pretextual Stops**.

Police currently have broad leeway to search drivers & vehicles. Pass legislation to restrict police stops for low level traffic violations.



2. Explore options for **unarmed traffic officers**

to enforce routine traffic laws and respond to traffic incidents.

- Transfer the Enforcement of Civil Traffic Laws and Traffic Incident Reporting from armed law enforcement to **unarmed Traffic Officers.**
- Berkeley (CA), Cambridge (MA), & New Orleans (LA) are already piloting such ***civilian* agencies.**

3. Increase **data transparency**.

- Collect, publish & analyze data according to the STAT Act.
- Develop **monthly public reports** regarding traffic stops, outcomes, and use of force by demographics & neighborhood.

Reinvest traffic revenue into under-resourced Long Island communities.

- Use ***road design*** to mitigate violations in the first place &:
- Develop a **voucher program** for equipment failure in place of ticketing.
- Install day-fines that vary in fee **based on the income** and wealth of violators.

* **United for Justice and Policing's** analysis of SCPD traffic stop data for the first 3 quarters of 2020

Civilian Complaint Review Board

Suffolk County Recommendation

Overview

The Long Island Advocates for Police Accountability drafted proposed legislation to amend the Suffolk County Charter ("SCC") and Administrative Code ("AC") to create a Civilian Complaint Review Board ("CCRB") in Suffolk County. In doing so, we have surveyed CCRBs around the country to incorporate best practices that would ensure its success. Our model is stronger than other CCRBs in a number of ways. For example, it has the power to direct the Police Commissioner to take disciplinary action as opposed to issuing non-binding recommendations. It also requires appointed CCRB members to reflect the diversity of the County's population and prohibits members from being former law enforcement professionals or partisan political operatives. Additionally, it contains a robust data compilation mandate that will allow residents to identify communities and groups within the County that are most affected by police misconduct. This summary provides an overview of the structure, powers, duties, and jurisdiction of the proposed CCRB, as well as the proposed rules and procedures to govern it.

Proposal

The purpose of the CCRB is to "fairly and transparently resolve allegations of police misconduct" (proposed SCC § C15-1) "in a manner in which the public and the police department have confidence" (proposed SCC § C15-2). Eleven members of the public will be appointed to serve three-year terms on the CCRB (proposed SCC § C15-3). Five members will be appointed by the County Legislature, five by the County Executive, and one chairperson will be appointed jointly by the County Executive and Presiding Officer of the Legislature (proposed SCC § C15-3(A)). The membership will "reflect the diversity of the county's population" (proposed SCC § C15-3(A)). No members will be former law enforcement professionals, former employees of a police department, or have the appearance of a conflict of interest with their service on the CCRB (proposed SCC § C15-3(B)).

The CCRB will have the power to investigate complaints by members of the public against officers of the Suffolk County Police Department for alleged misconduct involving "excessive use of force, abuse of authority, improper searches, unauthorized detentions, harassment, discourtesy, or the use of offensive language" (proposed SCC §C15-4(A)). Such investigations would be governed by a set of rules and procedures permitting the CCRB to obtain evidence, interview witnesses, and issue subpoenas (proposed AC §§ A15-11, A15-12, A15-13). As an alternative to the investigatory process, the CCRB will establish a mediation program that will allow a complainant to voluntarily choose to resolve the complaint by "informal conciliation for matters involving harassment, discourtesy, or use of offensive language" (proposed SCC § C15-4(D)). Other Suffolk County municipalities may opt-in to CCRB jurisdiction (proposed SCC § C15-5(D)).

After an investigation is completed, the CCRB will issue a report of its findings and disciplinary directive to the Suffolk County Police Commissioner (proposed SCC § 15-4(A)). If the CCRB finds that, by a preponderance of the evidence, there are substantiated allegations of misconduct, it "may direct penalties, discipline, a psychological evaluation, instructions with formalized training, or any combination" depending upon the severity of the misconduct (proposed AC § A15-15(D)). The Police Commissioner will implement the disciplinary directive and shall report in writing on all actions taken in furtherance thereof (proposed SCC § C15-5(C)). The commissioner may ask the board to revisit its disciplinary directive by submitting an application in writing and the board may impose a different level of discipline upon affirmative vote of not fewer than seven of its members (proposed SCC § C15-5(C)).

The CCRB will notify the complainant of its findings and direction and of any action taken by the Police Commissioner (proposed AC § 15-17(C)). All CCRB reports will be filed with the County Attorney (proposed AC § 15-9) and reports finding substantiated allegations of misconduct will be made public with certain redactions (proposed SCC § 15-4(A)).

In addition to conducting investigations and issuing findings, the CCRB will hold public meetings (proposed SCC § 15-4(H)), and issue annual reports and quarterly statistical reports disclosing, among other things, the number of complaints received, active investigations, and disciplinary recommendations made (proposed SCC § 15-4(G)).

Proposed Amendment to the Suffolk Charter

ARTICLE XV - A Civilian Complaint Review Board

Section C15-1. Legislative intent.
C15-2. Civilian Complaint Review Board established.
C15-3. Organization.
C15-4. Powers, duties and jurisdiction of the board.
C15-5. Cooperation of police departments.
C15-6. Separability.

§ C15-1. Legislative intent.

The county legislature has undertaken a comprehensive review of the Suffolk County police department's current policies, procedures, and practices in an effort to address any racial bias and disproportionate policing of communities of color, to fairly and transparently resolve allegations of police misconduct, and to promote community engagement and foster trust between Suffolk County police officers and the communities they serve. In accordance with those objectives, this article is adopted.

§ C15-2. Civilian Complaint Review Board established.

It is in the interest of the people of Suffolk County that the investigation of complaints concerning misconduct by officers of the Suffolk County police department towards members of the public be complete, thorough and impartial. These investigations must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with authority to investigate allegations of police misconduct as provided in this article.

§ C15-3. Organization.

A. The civilian complaint review board shall consist of eleven members of the public. Members shall be residents of Suffolk County and shall reflect the diversity of the county's population. The members of the board shall be appointed as follows: (i) five members shall be appointed by the county legislature; (ii) five members shall be appointed by the county executive and (iii) one member shall be appointed jointly by the county executive and the presiding officer of the legislature to serve as chair of the board.

B. No member of the board shall hold any other public office or employment that may create an actual or appearance of conflict with the performance of the powers and duties of the board. No members shall have experience as law enforcement professionals

or be former employees of any police department. For the purposes of this section, experience as a law enforcement professional shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

C. The members shall be appointed for terms of three years. The county executive and county legislature shall each make their first five appointments to the board on or before December 1, 2021. Those board members so appointed shall assume office on January 1, 2022. The county executive and presiding officer of the legislature shall make their initial joint appointment to the board on or before December 1, 2021. The board member so appointed shall serve as the board's chair and shall assume office on January 1, 2022.

D. Members of the board shall serve until their successors have been appointed and qualified. In the event of a vacancy on the board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment within 60 days from the date such vacancy occurred. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. During any period in which the office of the chair is vacant, the county executive shall select a member of the board to serve as interim chair until such vacancy has been filled.

§ C15-4. Powers, duties and jurisdiction of the board.

A. The board shall have the power to receive, investigate, hear, make findings and direct discipline based upon complaints by members of the public against members of the Suffolk County police department that allege misconduct involving excessive use of force, abuse of authority, improper searches and detentions, harassment, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sex, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, or action taken by any member of the police department to subvert the complaint process, if such statement or action was made during the course of and in relation to the board's resolution of such complaint. The findings and directions of the board, and the basis therefor, shall be submitted to the commissioner of the Suffolk County police department. Such findings and directions shall be made publicly available, with redactions made to protect the identity of the complainant, when discipline is directed. No finding or direction shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding direction.

B. The board shall promulgate rules and procedures as are necessary to effectuate the provisions of this section including, but not limited to, rules that prescribe the manner in which investigations are to be conducted and directions made and the manner by which a member of the public is to be informed of the status of their complaint.

C. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of records and other materials as are necessary for the investigation of matters within its jurisdiction pursuant to this section. The board may request the county attorney to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this section, and the board itself may institute such proceedings.

D. The board shall establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation for matters involving harassment, discourtesy, or use of offensive language.

E. The board is authorized, within appropriations available therefor, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate complaints.

F. The board shall issue to the county executive, the county legislature, and make publicly available an annual report which shall describe its activities, summarize its actions, and report the findings issued and discipline recommended during the reporting period.

G. The board shall issue to the county executive, the county legislature, and make publicly available a quarterly statistical report. The report shall include data from the reporting period providing the number of complaints received organized by precinct of occurrence and categorized by type of allegation; active investigations categorized by the age of such investigations based on the date the complaint was received; investigations closed and the disposition of the underlying complaints; disciplinary directions made categorized by type of discipline directed; referrals to any other agency; and shall include information concerning any pending cases filed in a court of competent jurisdiction against the Suffolk County police department.

H. The board shall have the responsibility of informing the public about the board and its duties, and shall develop and administer an on-going program for the education of the public regarding the provisions of this article. The board shall have monthly meetings and hearings that are open to the public and are announced and advertised on its website, with an agenda published at least one week in advance.

§ C15-5. Cooperation of police departments.

I. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide promptly to the board upon request records and other materials which are necessary for the investigation of complaints submitted pursuant to this section.

J. The commissioner of the Suffolk County police department shall ensure that officers and employees the police department appear before and respond to inquiries of the board and its civilian investigators in connection with the investigation of complaints submitted pursuant to this section.

K. The commissioner of the Suffolk County police department shall impose the discipline directed by the board and shall report to the board in writing on any actions taken in furtherance thereof, in all cases in which the board submitted a finding and/or direction with respect to a matter within its jurisdiction no later than 45 days after such action taken, discipline imposed, re-training required, and/or penalty imposed. If the commissioner seeks to impose a different penalty or level of discipline than that directed by the board, the commissioner may ask the board to revisit its determination by submitting a report that shall include a detailed explanation of the reasons for deviating from the board's prior determination and, in cases in which the police commissioner seeks to impose a level of discipline that is lower than that directed by the board, shall also include an explanation of each factor the commissioner considered in making their application. The board may then consider the commissioner's request and its direction to the commissioner upon affirmative vote of not fewer than seven of its members.

L. Any city or village may, by ordinance or resolution of its governing body, elect to bring its police department within the jurisdiction of the civilian complaint review board. Upon the adoption of such ordinance or resolution, the board shall exercise the same powers and duties as set forth in this article with respect to allegations of misconduct against members of the police department of such city or village.

M. The provisions of this section shall not be construed to limit or impair the authority of the commissioner of the Suffolk County police department to discipline and/or terminate members of the department. Nor shall the provisions of this section be construed to limit the rights of members of the police department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

N. The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the police department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency or body.

§ C15-6. Separability.

If any clause, sentence, paragraph, section or part of a section of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the part of or the provision of application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or invalidate the remainder thereof.

Proposed Revision to the Suffolk County Administrative Code

ARTICLE XV - A Civilian Complaint Review Board

Title A. Introduction

Section A15-1. Definitions
A15-2. Jurisdiction

Title B. Initial Procedures

Section A15-3. Filing Complaints
A15-4. Written Complaints
A15-5. Telephone or In-Person Complaints
A15-6. Referrals of Complaints
A15-7. Late Complaints
A15-8. Notification to the Police Department
A15-9. Retention of Complaints

Title C. Fact Finding Process

Section A15-10. Statement of Policy
A15-11. Method of Investigation of Complaints
A15-12. Obtaining Documentary and Other Evidence
A15-13. Conduct of Interviews

Title D. Disposition of Cases

Section A15-14. Board Review of Cases
A15-15. Case Dispositions
A15-16. Cases Closed without a Full Investigation
A15-17. Communications with and Notifications to Complainants, Alleged Victims, and Reporting Non-Witnesses Regarding Status of Complaints
A15-18. Reconsideration or Reopening of Cases
A15-19. Mediation

Title E. Board Meetings, Organization, and Delegated Authority

Section A15-20. Meetings of the Board
A15-21. Committees and Subcommittees

Title A. Introduction

§ A15-1. Definitions. Unless otherwise expressly stated in this chapter, the following terms shall have the following meanings:

A. "Agency Staff" shall mean employees of the Civilian Complaint Review Board, including Board investigators.
B. "Alleged Victim" refers to the person alleging harm by the alleged police misconduct.
C. "Case" refers to an investigation undertaken by the Civilian Complaint Review Board.
D. "Chair" shall mean the Chair of the Civilian Complaint Review Board, appointed pursuant to Suffolk County Charter § C15-3.
E. "Civilian Complaint Review Board" or "Board" shall mean the entity established by Suffolk County Charter § C15-2.
F. "Complainant" refers to a person with Personal Knowledge of alleged police misconduct who is filing a complaint on behalf of themselves or another person regarding the alleged misconduct.
G. “Mediation" shall mean an informal process, voluntarily agreed to by a Complainant and / or Alleged Victim and the subject officer and conducted with the assistance of a neutral third party, engaged in for the purpose of fully and frankly discussing alleged misconduct and attempting to arrive at a mutually agreeable resolution of a complaint.
H. "Personal Knowledge" shall mean knowledge of a circumstance or fact gained through firsthand observation or experience.
I. “Police Department” refers to the Suffolk County Police Department described in § 8-22.0 of the Suffolk County Administrative Code that is the Police Department within the boundaries of the “Police District” defined in § 8-18.0 of the Suffolk County Administrative Code.
J. “Preponderance of the Evidence” means the greater weight of the evidence. A fact is established by a preponderance of evidence when it is shown that the fact is more likely true than not true.
K. "Reporting Non-Witness" refers to a person without personal knowledge of the alleged police misconduct filing a complaint on behalf of another person.
L. “Statute of Limitations” refers to the eighteen month period following the occurrence of alleged misconduct, at the expiration of which no removal or disciplinary proceeding shall be commenced pursuant to Civil Service Law § 75(4).
M. "Victim" refers to the person harmed by at least one or more substantiated allegation(s) of police misconduct.

§ A15-2. Jurisdiction.

Pursuant to Article XV § C15-4 of the Suffolk County Charter, the Board has the power to receive, investigate, hear, make findings and direct sanctions based upon complaints by members of the public against members the Suffolk County police department that allege misconduct involving excessive use of force, abuse of authority, improper searches, unauthorized detentions, harassment, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sex, sexual orientation or disability.

Title B. Initial Procedures

§ A15-3. **Filing Complaints.**

A. An Alleged Victim, a parent, legal guardian or legal representative if the Alleged Victim is a minor, a legal representative of the Estate of the Alleged Victim if the Alleged Victim is deceased, or any individual having Personal Knowledge of alleged misconduct by a member of the Suffolk County police department, each have standing to file a complaint.

B. Complaints of alleged police misconduct filed by Reporting Non-Witnesses may be investigated at the discretion of the Chair of the Board. Among the factors to be considered are: the nature and / or severity of the alleged misconduct, the availability of evidence and / or witnesses, the ability to identify officers and civilians involved, the practicability of conducting a full investigation within the time prescribed by the statute of limitations and the numbers of complaints received by the Board regarding the incident.

§ A15-4. **Written Complaints.** Complaints must be filed using the form provided by the Suffolk County Civilian Review Board. The form must be completed, signed by the complainant or reporting non-witness, and returned to the Suffolk County Civilian Review Board office either in person, by mail, email, or by delivering a completed copy to any precinct of the Suffolk County police department.

§ A15-5. **Telephone or In-Person Complaints.** Complaints can be filed by telephone or in-person at hours designated by the Board.

§ A15-6. **Referrals of Complaints.**

A. Where the Board receives allegations about persons or matters falling within the sole jurisdiction of another agency, and not that of the Board, the Chair will refer such allegations to such other agency.

B. Where the Board receives allegations about persons or matters falling partly within the sole jurisdiction of another agency, and not that of the Board, and partly within the joint jurisdiction of both the other agency and the Board, the Chair may refer the entire complaint to the other agency if in the determination of Chair it is appropriate for the entire complaint to be investigated by one single agency.

C. The Board can investigate any complaint or allegation that falls within the Board's jurisdiction, regardless of whether another agency is investigating or has previously investigated the same complaint or allegation.

§ A15-7. **Late Complaints.**

A. When a complaint is filed with the Board more than one year after the incident, the Chair will determine whether to investigate the complaint.

B. Among the factors to be considered in determining whether to investigate complaints made after one year are: the nature and / or severity of the alleged misconduct, the availability of evidence and / or witnesses, the ability to identify officers and civilians involved, the practicability of conducting a full investigation within any applicable statute of limitation, the reason for the late filing and the numbers of complaints received by the Board regarding the incident.

§ A15-8. **Notification to the Police Department.**
With respect to complaints about officers and matters within the Board's jurisdiction, the Board will notify the police department of the actions complained of within a reasonable period of time after receipt of the complaint.

§ A15-9. **Retention of Complaints.** The Board shall maintain all complaints filed and cause same to be filed with the Suffolk County Attorney.

Title C. Fact Finding Process

§ A15-10. **Statement of Policy.** The procedures to be followed in investigating complaints will be such as in the opinion of the Board will best facilitate accurate, orderly and thorough fact-finding.

§ A15-11. **Method of Investigation of Complaints.** In investigating a complaint, Agency Staff may utilize one or more of the methods set forth in this chapter, and any other techniques not enumerated here, as may be allowed by law in conducting an investigation.

§ A15-12. **Obtaining Documentary and Other Evidence.**

A. Board investigators may make written or oral requests for information or documents.
B. Board investigators may interview the Complainant, Alleged Victim, the subject officer and witnesses.
C. Board investigators may make field visits for purposes such as examining the site of alleged misconduct and interviewing witnesses.
D. Upon a majority vote of the members of the Board, subpoenas ad testificandum and duces tecum may be issued and served. Such subpoenas are enforceable pursuant to relevant provisions of Article 23 of the New York Civil Practice Law and Rules.
E. The Board may obtain un-redacted records and other materials from the police department which are necessary for the investigation of complaints submitted to the Board, except such records and materials that cannot be disclosed by law. In the event that requests for records or other evidence are not complied with, investigators may request that the Board issue a subpoena duces tecum or a subpoena ad testificandum.

§ A15-13. **Conduct of Interviews.**

A. A member of the police department who is the subject of a complaint will be given ten business days' notice prior to the date of an interview, to obtain and consult with counsel. A member of the police department who is a witness in an investigation of a complaint will be given a period of time, up to ten business days, to confer with counsel.
B. All persons interviewed may be accompanied by up to two representatives, including counsel. Such counsel or representative may advise the person interviewed as circumstances may warrant, but may not otherwise participate in the proceeding.
C. Prior to the commencement of the interviewing of a police officer, the following statement will be read to such officer:

> "You are being questioned as part of an official investigation of the Civilian Complaint Review Board. You will be asked questions specifically directed and narrowly related to the performance of your duties. You are entitled to all the rights and privileges guaranteed by the laws of the State of New York, the Constitution of this State and the Constitution of the United States, including the

right not to be compelled to incriminate yourself and the right to have legal counsel present at each and every stage of this investigation.
If you refuse to testify or to answer questions relating to the performance of your official duties, your refusal will be reported to the police department and you may be subject to discipline, which could result in your dismissal from the police department. If you do answer, these statements may be used against you in relation to subsequent police department disciplinary proceedings."

D. Interviews will be scheduled with all persons interviewed at a reasonable hour, and reasonable requests for interview scheduling or rescheduling will be accommodated. If possible, an interview with a police officer will be scheduled when such officer is on duty and during daytime hours. Interviews may be conducted at the Board's offices or other locations designated by the Board.

E. The interviewer will inform a member of the police department of the name and position of the person in charge of the investigation, the name and position of the interviewer, the identity of all persons present at the interview, whether the member is a subject or witness in the investigation, and the nature of the complaint.

F. The interviewer will regulate the duration of question periods with breaks for such purpose as meals, personal necessity and telephone calls. The interviewer must record all recesses.

G. Interviews will be recorded by the Complaint Civilian Review Board. No other recordings are permitted.

H. If a person participating in an interview needs an interpreter, a qualified interpreter will be obtained from an official registry of interpreters or another reliable source as soon as possible.

I. When requested, reasonable accommodations will be made for persons with disabilities who are participating in an interview.

J. Prior to the commencement of an interview of a Complainant, Alleged Victim and / or civilian witness, the following statements will be read to such person, at the start of the interview:

Today is [ENTER DATE] and the time is now [ENTER TIME]. I am Investigator [ENTER NAME] and I am conducting an official investigation into Civilian Complaint Review Board case number [ENTER CASE NUMBER]. In this case, an allegation of misconduct has been made against (a) member(s) of Suffolk County police department. This interview is taking place at [LOCATION], and is being recorded. For the record, please state your name, address, date of birth, occupation / employer (if any) and / or student status.

Also present is / are [ENTER NAMES]. Mr. / Ms. [ENTER NAME], you are being asked to provide a statement pursuant to an official CCRB investigation under the authority granted the CCRB pursuant to Section 807 of the Suffolk County Charter. All statements made become part of the official investigative file and may be disclosed pursuant to subpoena or other document request to the extent permitted by law and in furtherance of criminal, administrative or civil litigation.

Please be advised that you will be asked to sign a verification statement at the conclusion of this interview ve is investigation are true to your knowledge.
Mr. / Ms. [ENTER NAME], do you understand what I have just told you?

and at conclusion of interview:

Is there anything that I haven't asked you about that you wish to add to the record?

I am now going to present for your signature the verification form I mentioned earlier. This form requires your signature and reflects the fact that you have verified that the statements you have made in connection with this case are true to your knowledge.

The time is now [ENTER TIME]. The interview is now concluded.

Title D. Disposition of Cases

§ A15-14. **Board Review of Cases**

A. The Board will review the investigatory materials for each Case and report its findings and directions in writing.
B. The Board shall maintain all reports and cause same to be filed with the County Attorney.
C. The Board may, if it deems appropriate, return a Case to investigative staff for further investigation.

§ A15-15. **Case Dispositions**

A. Pursuant to § C15-4 of the Suffolk County Charter, no finding or direction shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or direction.
B. The Board will employ a “preponderance of the evidence” standard in evaluating Cases and shall decide a case disposition by majority vote of all Board members, unless otherwise recused.
C. The findings and direction with respect to each Case reviewed by the Board will be submitted to the commissioner of the Suffolk County police department.
D. Where the disposition of one or more allegations is "Substantiated," as defined in Subdivision (e) of this section, the Board's findings and directions will be forwarded in the manner prescribed by Subdivision (c) within five business days and include appropriate information regarding the subject officer, the Case number and any other control or serial number assigned to the Case, and a summary of the pertinent facts. Based on its findings, the Board may direct penalties, discipline, a psychological evaluation, instructions with formalized training, or any combination of these consistent with § 8-13.0 of the Suffolk County Administrative Code. The Board may make other recommendations it deems appropriate that are not inconsistent with same.
E. The following categories of Case investigation dispositions will be used in all reports sent pursuant to Subdivision (c) of this section:

Substantiated: there was a preponderance of evidence that the acts alleged occurred and constituted misconduct.

Unsubstantiated: there was insufficient evidence to establish whether or not there was an act of misconduct.

Exonerated: there was a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct.

Unfounded: there was a preponderance of the evidence that the acts alleged did not occur.

Complaint Withdrawn: the Complainant withdrew the complaint.

Complainant Unavailable: the Complainant could not be reached or located.

Alleged Victim Unavailable: the Alleged Victim could not be reached or located.

Complainant Uncooperative: the participation of the Complainant was insufficient to enable the Board to conduct a full investigation.

Alleged Victim Uncooperative: the participation of the Alleged Victim was insufficient to enable the Board to conduct a full investigation.

Alleged Victim Unidentified: the Board could not identify the Alleged Victim and therefore was unable to conduct a full investigation.

Officer Unidentified: the Board was unable to identify the officer who was the subject of the allegation.

Referral: the complaint was referred to another agency.

No Jurisdiction: the complaint does not fall within the jurisdiction of the Board.

Mediated: the parties to the mediation agreed that the complaint should be considered as having been resolved through mediation.

Mediation Attempted: the parties agreed to mediate the complaint but the civilian subsequently did not participate in the mediation.

Miscellaneous: the subject of the complaint is not currently employed by the police department as a police officer.

Administrative Closure: the Case was referred to the Board by another agency, not by a member of the public, and the Board was unable to conduct a full investigation.

§ A15-16. **Cases closed without a Full Investigation.** The Board may close without conducting a full investigation any Case falling within categories (5) through (17) of section A15-32.0 of this chapter.

§ A15-17. **Communications with and Notifications to Complainants, Alleged Victims, and Reporting Non-Witnesses Regarding Status of Complaints.**

A. Within seven business days of the receipt of a complaint, the Board will notify a Complainant, Alleged Victim, and / or Reporting Non-Witness by

telephone, text, or email, and by letter, that the Civilian Complaint Review Board has received the complaint, and must identify the Case number and Agency Staff assigned to investigate the Case.

B. The Civilian Complaint Review Board will, within seven business days of a final decision of the Board, write to the Complainant and / or Alleged Victim with such findings and directions.

C. The Civilian Complaint Review Board will within seven business days of the Civilian Complaint Review Board's receipt of the police department's final determination will notify the Complainant and / or Alleged Victim by letter whether and what action was taken by the police department concerning the officer subject to the complaint.

§ A15-18. **Reconsideration or Reopening of Cases.**

Upon receipt of a written request to reconsider or reopen a Case from a Complainant, Alleged Victim, Victim or subject police officer, the Board may:

A. Reopen any Case previously closed without a full investigation; or

B. Agree to reconsider any Case previously closed with a full investigation if

(1) New evidence becomes available which could reasonably lead to a different finding or direction in the Case; or

(2) A previously unavailable or uncooperative witness becomes available which could reasonably lead to a different finding or direction in the Case; or

(3) If reopening or reconsidering the Case serves the interests of justice.

§ A15-19. **Mediation.**

A. A Complainant and / or Alleged Victim and the subject officer may choose to resolve a complaint by means of Mediation for matters involving harassment, discourtesy, or use of offensive language, unless the Board determines that the complaint is not appropriate for mediation.

B. A Reporting Non-Witness does not have standing to seek Mediation or refuse and prevent Mediation from proceeding. A Reporting Non-Witness who is a family member of an Alleged Victim may participate in Mediation whether the Alleged Victim participates or not.

C. If one of the parties does not agree to Mediation, the complaint will be referred to Agency Staff for investigation.

D. Written notice of the time, date and location of the first Mediation session must be provided to each party. Such notice will be accompanied by a description of procedures and guidelines for mediation. Subsequent session(s) will be scheduled by a member of the Board's mediation staff if the Mediation is not completed at the first session.

E. Those present at the Mediation session must include the mediator and all parties who have consented to the Mediation. Where appropriate, arrangements will be made for a translator or interpreter to be present. In the case of a Complainant or Alleged Victim who is a minor, a parent or legal guardian must be present. Upon request, reasonable accommodations will be made for persons with disabilities who are participating in a Mediation. Parties' representatives or counsel may be available outside the room where the Mediation is being conducted.

F. All information discussed or statements made at a Mediation session must be held in confidence by the mediator, and the parties must also agree in writing to maintain such confidentiality. No records of any kind, including, but not limited to, stenographic, video, or audio, may be made by any party.

G. The Mediation session(s) will continue as long as the participants believe that progress is being made toward the resolution of the issues. The Mediation process may terminate if either party announces his or her unwillingness to continue Mediation, the mediator believes no progress is being made, or the Complainant fails to attend two or more Mediation sessions without good cause shown.

H. If Mediation is successful, the parties may, but are not required to, sign an agreement stating that each believes the issues have been satisfactorily resolved. The Director of Mediation, or any Agency Staff designee will advise the Board when a Mediation is concluded and whether such Mediation was successful or unsuccessful. The Board will forward this information in accordance with section 8-A-32.0(c) of this chapter.

I. If a Case is not successfully resolved through Mediation, any party may ask for the complaint to be investigated, and the complaint will be referred to Agency Staff for investigation.

Title E. Board Meetings, Organization, and Delegated Authority

§ A15-20. **Meetings of the Board.**

I. The Board shall meet at least monthly and hold hearings that are open to the public. Such board meetings must be announced and advertised on its website, with an agenda published at least one week in advance. At such meetings, it will consider Cases referred to it and conduct any other business.

II. If a Board member has a personal, business or other relationship or association with a party to or a witness in a Case before it, the member must disclose this situation to the Chair. If a Board member has such relationship in a Case, the member should recuse themselves from deliberations or action in connection with that Case.

III. Board members must be present at a meeting of the Board or a panel in person or, subject to such limitations as the Board may by resolution from time to time determine, by video conference in order to register their votes.

§ A15-21. **Committees and Subcommittees.** The Chair has the authority to create committees and / or subcommittees to assist the Board in fulfilling its responsibilities pursuant to law. The members of any such created committees and / or subcommittees will be chosen by the Chair and will be chosen from the Board as well as Agency Staff.

Civilian Complaint Review Board

Nassau County Recommendation

Overview

This is the People's Plan drafted proposed legislation to amend the Nassau County Charter ("NCC") and Administrative Code ("AC") to create a Civilian Complaint Review Board ("CCRB") in Nassau County. In doing so, **we have surveyed CCRBs around the country to incorporate best practices that would ensure its success.** Our model is stronger than other CCRBs in a number of ways. For example, it has the power to direct the Police Commissioner to take disciplinary action as opposed to issuing non-binding recommendations. It also requires appointed CCRB members to reflect the diversity of the County's population and prohibits members from being former law enforcement professionals or partisan political operatives. Additionally, it contains a robust data compilation mandate that will allow residents to identify communities and groups within the County that are most affected by police misconduct. This summary provides an overview of the structure, powers, duties, and jurisdiction of the proposed CCRB, as well as the proposed rules and procedures to govern it.

Proposal

The purpose of the CCRB is to "fairly and transparently resolve allegations of police misconduct" (proposed NCC § 805) "in a manner in which the public and the police department have confidence" (proposed NCC § 806). Eleven members of the public will be appointed to serve three-year terms on the CCRB (proposed NCC § 807). Five members will be appointed by the County Legislature, five by the County Executive, and one chairperson will be appointed jointly by the County Executive and Presiding Officer of the Legislature (proposed NCC § 807(1)). The membership will "reflect the diversity of the county's population" (proposed NCC § 807(1)). No members will be former law enforcement professionals, former employees of a police department, or have the appearance of a conflict of interest with their service on the CCRB (proposed NCC § 807(2)).

The CCRB will have the power to investigate complaints by members of the public against officers of the Nassau County Police Department for alleged misconduct involving "excessive use of force, abuse of authority, improper searches, unauthorized detentions, harassment, discourtesy, or the use of offensive language" (proposed NCC § 808(1)). Such investigations would be governed by a set of rules and procedures permitting the CCRB to obtain evidence, interview witnesses, and issue subpoenas (proposed AC §§ 8-A-11, 8-A-12, 8-A-13). As an alternative to the investigatory process, the CCRB will establish a mediation program that will allow a complainant to voluntarily choose to resolve the complaint by "informal conciliation for matters involving harassment, discourtesy, or use of offensive language" (proposed NCC § 808(4)). Other Nassau County municipalities may opt-in to CCRB jurisdiction (proposed NCC § 809(4)).

After an investigation is completed, the CCRB will issue a report of its findings and disciplinary directive to the Nassau County Police Commissioner (proposed NCC § 808(1)). If the CCRB finds that, by a preponderance of the evidence, there are substantiated allegations of misconduct, it "may direct penalties, discipline, a psychological evaluation, instructions with formalized training, or any combination" depending upon the severity of the misconduct (proposed AC § 8-A-32). The Police Commissioner will implement the disciplinary directive and shall report in writing on all actions taken in furtherance thereof (proposed NCC § 809(3)). The commissioner may ask the board to revisit its disciplinary directive by submitting an application in writing and the board may impose a different level of discipline upon affirmative vote of not fewer than seven of its members (proposed NCC § 809(3)).

The CCRB will notify the complainant of its findings and direction and of any action taken by the Police Commissioner (proposed AC § 8-A-34). All CCRB reports will be filed with the County Attorney (proposed AC § 8-A-17) and reports finding substantiated allegations of misconduct will be made public with certain redactions (proposed NCC § 808(1)).

In addition to conducting investigations and issuing findings, the CCRB will hold public meetings (proposed NCC § 808(8)), and issue annual reports and quarterly statistical reports disclosing, among other things, the number of complaints received, active investigations, and disciplinary recommendations made (proposed NCC § 808(7)).

Proposed Amendment to the Nassau Charter

ARTICLE VIII - A Civilian Complaint Review Board

Section 805. Legislative intent.
806. Civilian Complaint Review Board established.
807. Organization.
808. Powers, duties and jurisdiction of the board.
809. Cooperation of police departments.
810. Separability.

§ 805. Legislative intent.

The county legislature has undertaken a comprehensive review of the Nassau County police department's current policies, procedures, and practices in an effort to address any racial bias and disproportionate policing of communities of color, to fairly and transparently resolve allegations of police misconduct, and to promote community engagement and foster trust between Nassau County police officers and the communities they serve. In accordance with those objectives, this article is adopted.

§ 806. Civilian Complaint Review Board established.

It is in the interest of the people of Nassau County that the investigation of complaints concerning misconduct by officers of the Nassau County police department towards members of the public be complete, thorough and impartial. These investigations must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with authority to investigate allegations of police misconduct as provided in this article.

§ 807. Organization.

1. The civilian complaint review board shall consist of eleven members of the public. Members shall be residents of Nassau County and shall reflect the diversity of the county's population. The members of the board shall be appointed as follows: (i) five members shall be appointed by the county legislature; (ii) five members shall be appointed by the county executive and (iii) one member shall be appointed jointly by the county executive and the presiding officer of the legislature to serve as chair of the board.

2. No member of the board shall hold any other public office or employment that may create an actual or appearance of conflict with the performance of the powers and duties of the board. No members shall have experience as law enforcement professionals

or be former employees of any police department. For the purposes of this section, experience as a law enforcement professional shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

3. The members shall be appointed for terms of three years. The county executive and county legislature shall each make their first five appointments to the board on or before December 1, 2020. Those board members so appointed shall assume office on January 1, 2021. The county executive and presiding officer of the legislature shall make their initial joint appointment to the board on or before December 1, 2020. The board member so appointed shall serve as the board's chair and shall assume office on January 1, 2021.

4. Members of the board shall serve until their successors have been appointed and qualified. In the event of a vacancy on the board during the term of office of a member by\ reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment within 60 days from the date such vacancy occurred. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. During any period in which the office of the chair is vacant, the county executive shall select a member of the board to serve as interim chair until such vacancy has been filled.

§ 808. Powers, duties and jurisdiction of the board.

1. The board shall have the power to receive, investigate, hear, make findings and direct sanctions based upon complaints by members of the public against members of the Nassau County police department that allege misconduct involving excessive use of force, abuse of authority, improper searches and detentions, harassment, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sex, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, or action taken by any member of the police department to subvert the complaint process, if such statement or action was made during the course of and in relation to the board's resolution of such complaint. The findings and directions of the board, and the basis therefor, shall be submitted to] the commissioner of the Nassau County police department. Such findings and directions shall be made publicly available, with redactions made to protect the identity of the complainant, when discipline is directed. No finding or direction shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding direction.

2. The board shall promulgate rules and procedures as are necessary to effectuate the provisions of this section including, but not limited to, rules that prescribe the manner in which investigations are to be conducted and directions made and the manner by which a member of the public is to be informed of the status of their complaint.

3. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of records and other materials as are necessary for the investigation of matters within its jurisdiction pursuant to this section. The board may request the county attorney to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this section, and the board itself may institute such proceedings.

4. The board shall establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation for matters involving harassment, discourtesy, or use of offensive language.

5. The board is authorized, within appropriations available therefor, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate complaints.

6. The board shall issue to the county executive, the county legislature, and make publicly available an annual report which shall describe its activities, summarize its actions, and report the findings issued and discipline recommended during the reporting period.

7. The board shall issue to the county executive, the county legislature, and make publicly available a quarterly statistical report. The report shall include data from the reporting period providing the number of complaints received organized by precinct of occurrence and categorized by type of allegation; active investigations categorized by the age of such investigations based on the date the complaint was received; investigations closed and the disposition of the underlying complaints; disciplinary directions made categorized by type of discipline directed; referrals to any other agency; and shall include information concerning any pending cases filed in a court of competent jurisdiction against the Nassau County police department.

8. The board shall have the responsibility of informing the public about the board and its duties, and shall develop and administer an on-going program for the education of the public regarding the provisions of this article. The board shall have monthly meetings and hearings that are open to the public and are announced and advertised on its website, with an agenda published at least one week in advance.

§ 809. Cooperation of police departments.

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide promptly to the board upon request records and other materials which are necessary for the investigation of complaints submitted pursuant to this section.

2. The commissioner of the Nassau County police department shall ensure that officers and employees the police department appear before and respond to inquiries of the board and its civilian investigators in connection with the investigation of complaints submitted pursuant to this section.

3. The commissioner of the Nassau County police department shall impose the discipline directed by the board and shall report to the board in writing on any actions taken in furtherance thereof, in all cases in which the board submitted a finding and / or direction with respect to a matter within its jurisdiction no later than 45 days after such action taken, discipline imposed, re-training required, and / or penalty imposed. If the commissioner seeks to impose a different penalty or level of discipline than that directed by the board, the commissioner may ask the board to revisit its determination by submitting a report that shall include a detailed explanation of the reasons for deviating from the board's prior determination and, in cases in which the police commissioner seeks to impose a level of discipline that is lower than that directed by the board, shall also include an explanation of each factor the commissioner considered in making their application. The board may then consider the commissioner's request and its direction to the commissioner upon affirmative vote of not fewer than seven of its members.

4. Any city or village may, by ordinance or resolution of its governing body, elect to bring its police department within the jurisdiction of the civilian complaint review board. Upon the adoption of such ordinance or resolution, the board shall exercise the same powers and duties as set forth in this article with respect to allegations of misconduct against members of the police department of such city or village.

5. The provisions of this section shall not be construed to limit or impair the authority of the commissioner of the Nassau County police department to discipline and / or terminate members of the department. Nor shall the provisions of this section be construed to limit the rights of members of the police department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

6. The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the police department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency or body.

§ 810. Separability.

If any clause, sentence, paragraph, section or part of a section of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the part of or the provision of application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or invalidate the remainder thereof.

Proposed Revision to the Nassau County Administrative Code

CHAPTER VIII - A Civilian Complaint Review Board

Title A. Introduction

Section 8-A-1.0 Definitions
8-A-2.0 Jurisdiction

Title B. Initial Procedures

Section 8-A-11.0 Filing Complaints
8-A-12.0 Written Complaints
8-A-13.0 Telephone or In-Person Complaints
8-A-14.0 Referrals of Complaints
8-A-15.0 Late Complaints
8-A-16.0 Notification to the Police Department
8-A-17.0 Retention of Complaints

Title C. Fact Finding Process

Section 8-A-21.0 Statement of Policy
8-A-22.0 Method of Investigation of Complaints
8-A-23.0 Obtaining Documentary and Other Evidence
8-A-24.0 Conduct of Interviews

Title D. Disposition of Cases

Section 8-A-31.0 Board Review of Cases
8-A-32.0 Case Dispositions
8-A-33.0 Cases Closed without a Full Investigation
8-A-34.0 Communications with and Notifications to Complainants, Alleged Victims, and Reporting Non-Witnesses Regarding Status of Complaints
8-A-35.0 Reconsideration or Reopening of Cases
8-A-36.0 Mediation

Title E. Board Meetings, Organization, and Delegated Authority

Section 8-A-41.0 Meetings of the Board
8-A-42.0 Committees and Subcommittees

§ 8-A-2.0 Definitions. Unless otherwise expressly stated in this chapter, the following terms shall have the following meanings:

a. "Agency Staff" shall mean employees of the Civilian Complaint Review Board, including Board investigators.
b. "Alleged Victim" refers to the person alleging harm by the alleged police misconduct.
c. "Case" refers to an investigation undertaken by the Civilian Complaint Review Board.
d. "Chair" shall mean the Chair of the Civilian Complaint Review Board, appointed pursuant to Nassau County Charter § 806.
e. "Civilian Complaint Review Board" or "Board" shall mean the entity established by Nassau County Charter § 805.
f. "Complainant" refers to a person with Personal Knowledge of alleged police misconduct who is filing a complaint on behalf of themselves or another person regarding the alleged misconduct.
g. “Mediation" shall mean an informal process, voluntarily agreed to by a Complainant and/or Alleged Victim and the subject officer and conducted with the assistance of a neutral third party, engaged in for the purpose of fully and frankly discussing alleged misconduct and attempting to arrive at a mutually agreeable resolution of a complaint.
h. "Personal Knowledge" shall mean knowledge of a circumstance or fact gained through firsthand observation or experience.
i. “Police Department” refers to the Nassau County Police Department described in § 8-22.0 of the Nassau County Administrative Code that is the Police Department within the boundaries of the “Police District” defined in § 8-18.0 of the Nassau County Administrative Code.
j. “Preponderance of the Evidence” means the greater weight of the evidence. A fact is established by a preponderance of evidence when it is shown that the fact is more likely true than not true.
k. "Reporting Non-Witness" refers to a person without personal knowledge of the alleged police misconduct filing a complaint on behalf of another person.
l. “Statute of Limitations” refers to the eighteen month period following the occurrence of alleged misconduct, at the expiration of which no removal or disciplinary proceeding shall be commenced pursuant to Civil Service Law § 75(4).
m. "Victim" refers to the person harmed by at least one or more substantiated allegation(s) of police misconduct.

§ 8-A-2.0 Jurisdiction. Pursuant to Article VIII-A § 807 of the Nassau County Charter, the Board has the power to receive, investigate, hear, make findings and direct sanctions based upon complaints by members of the public against members the Nassau County police department that allege misconduct involving excessive use of force, abuse of authority, improper searches, unauthorized detentions, harassment, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sex, sexual orientation or disability.

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§ 8-A-11.0 **Filing Complaints.**

a. An Alleged Victim, a parent, legal guardian or legal representative if the Alleged Victim is a minor, a legal representative of the Estate of the Alleged Victim if the Alleged Victim is deceased, or any individual having Personal Knowledge of alleged misconduct by a member of the Nassau County police department, each have standing to file a complaint.

b. Complaints of alleged police misconduct filed by Reporting Non-Witnesses may be investigated at the discretion of the Chair of the Board. Among the factors to be considered are: the nature and / or severity of the alleged misconduct, the availability of evidence and / or witnesses, the ability to identify officers and civilians involved, the practicability of conducting a full investigation within the time prescribed by the statute of limitations and the numbers of complaints received by the Board regarding the incident.

§ 8-A-12.0 **Written Complaints.** Complaints must be filed using the form provided by the Nassau County Civilian Review Board. The form must be completed, signed by the complainant or reporting non-witness, and returned to the Nassau County Civilian Review Board office either in person, by mail, email, or by delivering a completed copy to any precinct of the Nassau County police department.

§ 8-A-13.0 **Telephone or In-Person Complaints.** Complaints can be filed by telephone or in-person at hours designated by the Board.

§ 8-A-14.0 **Referrals of Complaints.**

a. Where the Board receives allegations about persons or matters falling within the sole jurisdiction of another agency, and not that of the Board, the Chair will refer such allegations to such other agency.

b. Where the Board receives allegations about persons or matters falling partly within the sole jurisdiction of another agency, and not that of the Board, and partly within the joint jurisdiction of both the other agency and the Board, the Chair may refer the entire complaint to the other agency if in the determination of Chair it is appropriate for the entire complaint to be investigated by one single agency.

c. The Board can investigate any complaint or allegation that falls within the Board's jurisdiction, regardless of whether another agency is investigating or has previously investigated the same complaint or allegation.

§ 8-A-15.0 **Late Complaints.**

a. When a complaint is filed with the Board more than one year after the incident, the Chair will determine whether to investigate the complaint.

b. Among the factors to be considered in determining whether to investigate complaints made after one year are: the nature and / or severity of the alleged misconduct, the availability of evidence and / or witnesses, the ability to identify officers and civilians involved, the practicability of conducting a full investigation within any applicable statute of limitation, the reason for the late filing and the numbers of complaints received by the Board regarding the incident.

§ 8-A-16.0 **Notification to the Police Department.** With respect to complaints about officers and matters within the Board's jurisdiction, the Board will notify the police department of the actions complained of within a reasonable period of time after receipt of the complaint.

§ 8-A-17.0 **Retention of Complaints.** The Board shall maintain all complaints filed and cause same to be filed with the Nassau County Attorney.

Title C. Fact Finding Process

§ 8-A-21.0 **Statement of Policy**. The procedures to be followed in investigating complaints will be such as in the opinion of the Board will best facilitate accurate, orderly and thorough fact-finding.

§ 8-A-22.0 **Method of Investigation of Complaints.** In investigating a complaint, Agency Staff may utilize one or more of the methods set forth in this chapter, and any other techniques not enumerated here, as may be allowed by law in conducting an investigation.

§ 8-A-23.0 **Obtaining Documentary and Other Evidence.**

a. Board investigators may make written or oral requests for information or documents.
b. Board investigators may interview the Complainant, Alleged Victim, the subject officer and witnesses.
c. Board investigators may make field visits for purposes such as examining the site of alleged misconduct and interviewing witnesses.
d. Upon a majority vote of the members of the Board, subpoenas ad testificandum and duces tecum may be issued and served. Such subpoenas are enforceable pursuant to relevant provisions of Article 23 of the New York Civil Practice Law and Rules.
e. The Board may obtain un-redacted records and other materials from the police department which are necessary for the investigation of complaints submitted to the Board, except such records and materials that cannot be disclosed by law. In the event that requests for records or other evidence are not complied with, investigators may request that the Board issue a subpoena duces tecum or a subpoena ad testificandum.

§ 8-A-24.0 **Conduct of Interviews.**

a. A member of the police department who is the subject of a complaint will be given ten business days' notice prior to the date of an interview, to obtain and consult with counsel. A member of the police department who is a witness in an investigation of a complaint will be given a period of time, up to ten business days, to confer with counsel.
b. All persons interviewed may be accompanied by up to two representatives, including counsel. Such counsel or representative may advise the person interviewed as circumstances may warrant, but may not otherwise participate in the proceeding.
c. Prior to the commencement of the interviewing of a police officer, the following statement will be read to such officer:

> "You are being questioned as part of an official investigation of the Civilian Complaint Review Board. You will be asked questions specifically directed and narrowly related to the performance of your duties. You are entitled to all the rights and privileges guaranteed by the laws of the State of New York, the Constitution of this State and the Constitution of the United States, including the

right not to be compelled to incriminate yourself and the right to have legal counsel present at each and every stage of this investigation.

If you refuse to testify or to answer questions relating to the performance of your official duties, your refusal will be reported to the police department and you may be subject to discipline, which could result in your dismissal from the police department. If you do answer, these statements may be used against you in relation to subsequent police department disciplinary proceedings."

d. Interviews will be scheduled with all persons interviewed at a reasonable hour, and reasonable requests for interview scheduling or rescheduling will be accommodated. If possible, an interview with a police officer will be scheduled when such officer is on duty and during daytime hours. Interviews may be conducted at the Board's offices or other locations designated by the Board.

e. The interviewer will inform a member of the police department of the name and position of the person in charge of the investigation, the name and position of the interviewer, the identity of all persons present at the interview, whether the member is a subject or witness in the investigation, and the nature of the complaint.

f. The interviewer will regulate the duration of question periods with breaks for such purpose as meals, personal necessity and telephone calls. The interviewer must record all recesses.

g. Interviews will be recorded by the Complaint Civilian Review Board. No other recordings are permitted.

h. If a person participating in an interview needs an interpreter, a qualified interpreter will be obtained from an official registry of interpreters or another reliable source as soon as possible.

i. When requested, reasonable accommodations will be made for persons with disabilities who are participating in an interview.

j. Prior to the commencement of an interview of a Complainant, Alleged Victim and / or civilian witness, the following statements will be read to such person, at the start of the interview:

Today is [ENTER DATE] and the time is now [ENTER TIME]. I am Investigator [ENTER NAME] and I am conducting an official investigation into Civilian Complaint Review Board case number [ENTER CASE NUMBER]. In this case, an allegation of misconduct has been made against (a) member(s) of Nassau County police department. This interview is taking place at [LOCATION], and is being recorded. For the record, please state your name, address, date of birth, occupation / employer (if any) and / or student status.

Also present is / are [ENTER NAMES]. Mr. / Ms. [ENTER NAME], you are being asked to provide a statement pursuant to an official CCRB investigation under the authority granted the CCRB pursuant to Section 807 of the Nassau County Charter. All statements made become part of the official investigative file and may be disclosed pursuant to subpoena or other document request to the extent permitted by law and in furtherance of criminal, administrative or civil litigation.

Please be advised that you will be asked to sign a verification statement at the conclusion of this interview verifying that all of the statements you have provided in connection with this investigation are true to your knowledge.

Mr. / Ms. [ENTER NAME], do you understand what I have just told you?

and at conclusion of interview:

Is there anything that I haven't asked you about that you wish to add to the record?

I am now going to present for your signature the verification form I mentioned earlier. This form requires your signature and reflects the fact that you have verified that the statements you have made in connection with this case are true to your knowledge.

The time is now [ENTER TIME]. The interview is now concluded.

Title D. Disposition of Cases

§ 8-A-31.0 **Board Review of Cases**

a. The Board will review the investigatory materials for each Case and report its findings and directions in writing.
b. The Board shall maintain all reports and cause same to be filed with the County Attorney.
c. The Board may, if it deems appropriate, return a Case to investigative staff for further investigation.

§ 8-A-32.0 **Case Dispositions**

a. Pursuant to § 807 of the Nassau County Charter, no finding or direction shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or direction.
b. The Board will employ a “preponderance of the evidence” standard in evaluating Cases and shall decide a case disposition by majority vote of all Board members, unless otherwise recused.
c. The findings and direction with respect to each Case reviewed by the Board will be submitted to the commissioner of the Nassau County police department.
d. Where the disposition of one or more allegations is "Substantiated," as defined in Subdivision (e) of this section, the Board's findings and directions will be forwarded in the manner prescribed by Subdivision (c) within five business days and include appropriate information regarding the subject officer, the Case number and any other control or serial number assigned to the Case, and a summary of the pertinent facts. Based on its findings, the Board may direct penalties, discipline, a psychological evaluation, instructions with formalized training, or any combination of these consistent with § 8-13.0 of the Nassau County Administrative Code. The Board may make other recommendations it deems appropriate that are not inconsistent with same.
e. The following categories of Case investigation dispositions will be used in all reports sent pursuant to Subdivision (c) of this section:

1. Substantiated: there was a preponderance of evidence that the acts alleged occurred and constituted misconduct.
2. Unsubstantiated: there was insufficient evidence to establish whether or not there was an act of misconduct.

3. Exonerated: there was a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct.
4. Unfounded: there was a preponderance of the evidence that the acts alleged did not occur.
5. Complaint Withdrawn: the Complainant withdrew the complaint.
6. Complainant Unavailable: the Complainant could not be reached or located.
7. Alleged Victim Unavailable: the Alleged Victim could not be reached or located
8. Complainant Uncooperative: the participation of the Complainant was insufficient to enable the Board to conduct a full investigation.
9. Alleged Victim Uncooperative: the participation of the Alleged Victim was insufficient to enable the Board to conduct a full investigation.
10. Alleged Victim Unidentified: the Board could not identify the Alleged Victim and therefore was unable to conduct a full investigation.
11. Officer Unidentified: the Board was unable to identify the officer who was the subject of the allegation.
12. Referral: the complaint was referred to another agency.
13. No Jurisdiction: the complaint does not fall within the jurisdiction of the Board.
14. Mediated: the parties to the mediation agreed that the complaint should be considered as having been resolved through mediation.
15. Mediation Attempted: the parties agreed to mediate the complaint but the civilian subsequently did not participate in the mediation.
16. Miscellaneous: the subject of the complaint is not currently employed by the police department as a police officer.
17. Administrative Closure: the Case was referred to the Board by another agency, not by a member of the public, and the Board was unable to conduct a full investigation.

§ 8-A-33.0 **Cases closed without a Full Investigation.** The Board may close without conducting a full investigation any Case falling within categories (5) through (17) of section 8-A-32.0 of this chapter.

§ 8-A-34.0 **Communications with and Notifications to Complainants, Alleged Victims, and Reporting Non-Witnesses Regarding Status of Complaints.**

a. Within seven business days of the receipt of a complaint, the Board will notify a Complainant, Alleged Victim, and / or Reporting Non-Witness by telephone, text, or email, and by letter, that the Civilian Complaint Review Board has received the complaint, and must identify the Case number and Agency Staff assigned to investigate the Case.
b. The Civilian Complaint Review Board will, within seven business days of a final decision of the Board, write to the Complainant and / or Alleged Victim with such findings and directions.
c. The Civilian Complaint Review Board will within seven business days of the Civilian Complaint Review Board's receipt of the police department's final determination will notify the Complainant and / or Alleged Victim by letter whether and what action was taken by the police department concerning the officer subject to the complaint.

§ 8-A-35.0 **Reconsideration or Reopening of Cases.**

Upon receipt of a written request to reconsider or reopen a Case from a Complainant, Alleged Victim, Victim or subject police officer, the Board may:

1. Reopen any Case previously closed without a full investigation; or
2. Agree to reconsider any Case previously closed with a full investigation if

   i. New evidence becomes available which could reasonably lead to a different finding or direction in the Case; or
   ii. A previously unavailable or uncooperative witness becomes available which could reasonably lead to a different finding or direction in the Case; or
   iii. If reopening or reconsidering the Case serves the interests of justice.

§ 8-A-36.0 **Mediation.**

1. A Complainant and / or Alleged Victim and the subject officer may choose to resolve a complaint by means of Mediation for matters involving harassment, discourtesy, or use of offensive language, unless the Board determines that the complaint is not appropriate for mediation.
2. A Reporting Non-Witness does not have standing to seek Mediation or refuse and prevent Mediation from proceeding. A Reporting Non-Witness who is a family member of an Alleged Victim may participate in Mediation whether the Alleged Victim participates or not.
3. If one of the parties does not agree to Mediation, the complaint will be referred to Agency Staff for investigation.
4. Written notice of the time, date and location of the first Mediation session must be provided to each party. Such notice will be accompanied by a description of procedures and guidelines for mediation. Subsequent session(s) will be scheduled by a member of the Board's mediation staff if the Mediation is not completed at the first session.
5. Those present at the Mediation session must include the mediator and all parties who have consented to the Mediation. Where appropriate, arrangements will be made for a translator or interpreter to be present. In the case of a Complainant or Alleged Victim who is a minor, a parent or legal guardian must be present. Upon request, reasonable accommodations will be made for persons with disabilities who are participating in a Mediation. Parties' representatives or counsel may be available outside the room where the Mediation is being conducted.
6. All information discussed or statements made at a Mediation session must be held in confidence by the mediator, and the parties must also agree in writing to maintain such confidentiality. No records of any kind, including, but not limited to, stenographic, video, or audio, may be made by any party.
7. The Mediation session(s) will continue as long as the participants believe that progress is being made toward the resolution of the issues. The Mediation process may terminate if either party announces his or her unwillingness to continue Mediation, the mediator believes no progress is being made, or the Complainant fails to attend two or more Mediation sessions without good cause shown.
8. If Mediation is successful, the parties may, but are not required to, sign an agreement stating that each believes the issues have been satisfactorily resolved. The Director of Mediation, or any Agency Staff designee will advise the Board when a

Mediation is concluded and whether such Mediation was successful or unsuccessful. The Board will forward this information in accordance with section 8-A-32.0(c) of this chapter.

9. If a Case is not successfully resolved through Mediation, any party may ask for the complaint to be investigated, and the complaint will be referred to Agency Staff for investigation.

Title E. Board Meetings, Organization, and Delegated Authority

§ 8-A-41.0 **Meetings of the Board.**

A. The Board shall meet at least monthly and hold hearings that are open to the public. Such board meetings must be announced and advertised on its website, with an agenda published at least one week in advance. At such meetings, it will consider Cases referred to it and conduct any other business.

B. If a Board member has a personal, business or other relationship or association with a party to or a witness in a Case before it, the member must disclose this situation to the Chair. If a Board member has such relationship in a Case, the member should recuse themselves from deliberations or action in connection with that Case.

C. Board members must be present at a meeting of the Board or a panel in person or, subject to such limitations as the Board may by resolution from time to time determine, by video conference in order to register their votes.

§ 8-A-41.0 **Committees and Subcommittees.** The Chair has the authority to create committees and / or subcommittees to assist the Board in fulfilling its responsibilities pursuant to law. The members of any such created committees and / or subcommittees will be chosen by the Chair and will be chosen from the Board as well as Agency Staff.

Civilian Complaint Review Board

The purpose of the CCRB is to fairly and transparently resolve allegations of police misconduct in a manner in which both the public and the police department have confidence.

Formula for a successful CCRB

- Strong Investigative Authority
- Well-Funded
- Police - CCRB Cooperation
- Transparency of Data
- Intrinsic Power
- Independence of Investigation

Many CCRBs fail because they are financially unable to conduct the necessary investigative work to be effective. Long Island CCRBs will not suffer the same budgetary anemia.

Rather than issuing non-binding recommendations, Long Island CCRBs will have the power to direct the Police Commissioner to impose discipline.

Process

COMPLAINT: Victims or witnesses of police misconduct file a complaint

- Complaints can be filed electronically, by paper, or by phone
- Complainants are informed of the status of their complaint from start to finish
- A record of every complaint is kept

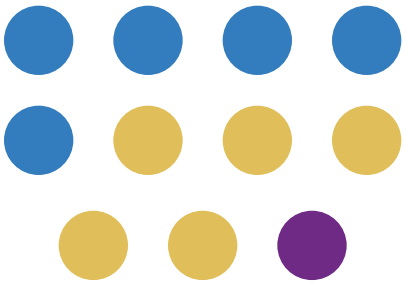
INVESTIGATION: CCRB members & staff investigate the complaint by holding hearings, taking testimony & assembling records

- CCRB investigates misconduct including but not limited to excessive force, abuse of authority, harassment
- CCRB employs investigators that request records, interview relevant parties, issue subpoenas and can go to court to require compliance.

REPORT & DIRECTIVE: After investigation, the CCRB assembles a report and disciplinary directive

- CCRB reports if there are substantiated allegations of misconduct.
- If so, CCRB directs discipline or other action to be implemented by the Police Commissioner
- Reports of substantiated misconduct are public

Composition



5 appointed by County Legislature

5 appointed by County Executive

Chair co-appointed by CL & CE

Members will be residents of the county, reflect the diversity of the county's population & have no ties to law enforcement

Restorative Justice

Police Officers and alleged victims of misconduct can avoid a CCRB investigation in most instances by participating in mediation

Often, victims just want to confront their perpetrator and receive an apology and assurance of changed behavior

Right to Know Act

Problem:

Police stops are, in many cases, the first point of contact with police authority, and are oftentimes, conducted in an arbitrary, often pretextual fashion, lacking the legal requirement under the Fourth Amendment requiring **reasonable suspicion** that a **crime** has been, is being, or is about to be committed by the *'suspect.'* These encounters, too often, result in escalation, resulting in obstruction of justice, resisting arrest and/or disorderly conduct charges, placing otherwise innocent people into the carceral system. To date, in Nassau and Suffolk counties, there are no accountability or transparency requirements around either pedestrian, bicycle, or vehicle stops at the scene. In Nassau County, there is very little known demographic or geographic data collected or reported to the public concerning stops. In the New York Civil Liberties Union *"Behind the Badge Report,"* published in 2018, the Nassau County Police Department was not able to provide demographic stop information because they claimed that they did not have a system in place to aggregate the data.[1] More recently, they provided faulty data to the county's own police reform task force, the CCT, who analyzed the data, which was placed on the Nassau County website[2] and found it to be misleading. This data also excluded the necessary demographic population data required for proper analysis.

In Suffolk County the Department of Justice Agreement of 2014 mandated public reporting of traffic stop data. While this data was placed on the SCPD website quarterly, there were duplicates, blanks, incorrect data such as location not being the location of the traffic stop, vague codes such as Other Violations and other issues, leading to challenges in acquiring the necessary information about what was really going on in the precincts. However, using this data, Newsday in October 2020 found that *"Officers pulled over Black drivers almost four times more often than white drivers, and Hispanic drivers twice as often. More telling, after stopping drivers, police searched Blacks over three times more frequently than whites, and Hispanics 1.7 times more frequently. At the same time, Suffolk Police found contraband, such as an illegal weapon or drugs, when searching Black and Hispanic drivers less frequently than when they searched white motorists."*[3] Both the lack of accurate data from Nassau County and the known data from Suffolk, point to the need for transparency and accountability measures that will reduce harm, prevent unnecessary police encounters, reduce over-policing in black and brown communities and provide information to the public about how and where the police are operating.

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[1] Behind the Badge "Nassau County: Introduction Stops, Field Interviews, Search and Seizure," NYCLU, accessed February 17, 2021, https://www.behindthebadgeny.org/policy/1545/

[2] https://www.nassaucountyny.gov/DocumentCenter/View/30928/Updated-Nassau-County-Police-Department-Summons-Reporting-and-Findings?bidId=

[3] Clark, Matt and Schwartz, David. "Newsday Analysis: Suffolk Police Stopped, Searched Minority Drivers at Higher Rates." *Newsday*, October 20, 2020

The Proposal

The Right to Know Act (ID Law and Consent to Search Law) to be passed in both counties.

Proposed Model:

The Nassau County/Suffolk County ID Law

- Officers verbally provide their name, rank, command, date, and reason for the stop at the beginning of the encounter.
- Officers ask if interpretation is needed in order for the individual to understand, uses Language Line or secures another officer to provide interpretation, and does not use a family member, friend or child for interpretation purposes before proceeding with the encounter
- Officers provide documentation at the end of the encounter if the encounter does not end in arrest including, name, rank, command, badge number, reason for the stop, location of the stop, beginning and end time of the encounter, and documentation of interpretation services used if applicable
- Records and documentation of all stops with applicable information, including demographic and location information is entered into digital data-base for public reporting and foil response.
- Data-bases are shared with an independent inspector general's office/accountability board, and the members of the public safety committee of the legislature
- The Police Commissioner reports twice annually to the Public Safety Committee of the Legislature on demographic stop and language access data and data is published in an annual report and on the County Website.

Consent to Search Law

- The officers verbally inform an individual who has been stopped, of their right to provide or not provide consent to be searched prior to any search of a body or a car
- Officers ask if interpretation is needed in order for the individual to understand, uses Language Line or secures another officer to provide interpretation, and does not use a family member, friend or child for interpretation purposes before proceeding with the encounter
- The officer informs an individual that a search won't be conducted without consent and checks to make sure the individual understands
- The officer secures a signature from the individual giving his/her/their consent to be searched, which is read aloud in the appropriate language prior to securing of signature
- Officer completes a checklist of the prior requirements and submit to an established database to track implementation
- The Police Commissioner reports twice annually to a public meeting of the Public Safety Committee of the Legislature on number and demographics of consent requested and obtained during a 6 month period and all data be published in an annual report and placed on the County Website
- All data-bases are shared with an independent inspector general's office (or other oversight entity) as well as all members of the public safety committee of the Legislature.

Implementation:

- Appropriate forms and databases be created and distributed*
- Training be developed for protocols and procedures

- Officers receive training on forms, protocols and database entry
- Officers and/or police support staff input data on a daily basis to be shared with the inspector general's office and the Public Safety Committee Member of the Legislature

*Model legislation and field cards available upon request

Right to Know Act

Police Stops are, oftentimes, conducted in an arbitrary, pretextual fashion lacking the legal requirement under the Fourth Amendment requiring reasonable suspicion. These encounters too often result in escalation. To date, there are **no accountability or transparency requirements** around either pedestrian or vehicle stops at the scene, and people who are being stopped have no rights to receive information concerning the stop.

Requiring Officers to **Identify Themselves**

- Officers ask if interpretation is needed **immediately**.
- Officers **verbally** provide name, rank, command, date, reason for stop, duration of stop and outcome.
- Officers use a checklist **to be registered with their Dept. upon return** (recording that the checklist was completed).

Requiring Consent Prior to a Search of a Car, Body, or Possessions

- Officer verbally informs an individual of their right **to provide or not provide consent** to be searched.
- Officer informs individual that a search won't be conducted without consent, **checks to be sure individual understands and provides interpreter if necessary**.
- Officer secures a **signature providing consent** or **verbal recording** for those with disabilities.

All components of this policy include **data collection and reporting**, and sharing with oversight entities.

Office of Police Inspector General

Section Summary

Nassau and Suffolk County are among the largest police forces in the country, yet they operate with very little oversight, data reporting requirements, or accountability measures to ensure public trust. Their investigation and complaint processes are conducted internally, and they are not subjected to stringent questioning by their respective County legislatures, nor are there mechanisms available for public scrutiny of their operations, policy, and/or training regime. As such, it is important to institute a system of oversight, which would optimally include an independent oversight board, such as a CCRB, stringent public questioning by the Public Safety Committee of the Legislature, and the establishment of an independent Inspector General's office exclusively geared toward monitoring policing. According to the Brennan Center for Justice, in a report geared toward the establishment of an NYPD Inspector General for intelligence gathering, they state, "In the Federal System, Congressional supervision informed by reports from independent inspectors general has been a crucial tool for increasing transparency, accountability and effectiveness in the realm of intelligence and counterterrorism."[1] The Brennan Center describes federal oversight of the FBI and the CIA, both monitored by independent inspector's general who report to Congress. While it should be noted that, depending on the initiating legislation and its many components, these positions can be less than perfect, however, "…it has contributed significantly to transparency and accountability in federal intelligence operations."[2] As the residents of Nassau and Suffolk County are currently experiencing little to no oversight, the establishment of an Inspector General's office, established in the following manner and given the following powers, are necessary.

Key Factors

- Credibility is fostered by ensuring that the appointed person is viewed as neutral and possesses the necessary expertise, is not tied to a specific administration, and has broad discretion in selecting the subjects to be reviewed.[3]

- Powers granted should include subpoena, investigative, and reporting power.

- The Inspector General's office should have access to other government agency records, including the agency subjected to oversight, and employees who work with the inspector general's office are protected from retaliation and their identities concealed.

- **Reporting Structure**: Successful Inspector General offices have a dual reporting role, which, in this case, would be to both the executive and legislative branches.

- **Funding:** Inadequate funding can cause a well-structured Inspector General's office to fail. At the federal level, according to the IG Act,[4] Inspectors General can submit statements pertaining to the adequacy or inadequacy of their budgets. The same should be applicable at the local level.

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[1] Faiza Patel, Andrew Sullivan, "A proposal for an NYPD Inspector General", Brennan Center for Justice, 2012, https://www.brennancenter.org/our-work/policy-solutions/proposal-nypd-inspector-general p. 11
[2] Ibid. 3
[3] Ibid. 18
[4] Ibid. 19

The Proposal

Develop an Office of Police Inspector General in accordance with the key components below.

Components of the Proposal

The proposal includes the following key components:

- Initiating legislation should include definitions and statement of purpose to include the need for increased transparency, accountability and oversight, and independence and objectivity.

- Initiating legislation should include statements pertaining to its independence and removal from political influence.

- The Inspector General qualifications should include:
    - Knowledge in Office of Inspector General statutory requirements, directives, rules, and regulations
    - Working familiarity with the organization's program, activities, and functions within the OIG's area of responsibility, in this case, policing
    - Knowledge of government policies, requirements, and guidelines related to policing
    - Technical skills relating to computer auditing, information technology, policy evaluation/ statistical analysis, trend analysis, systems and management analysis, and covert surveillance
    - Appropriate licensure and certification in the professional activities conducted by the OIG.
    - Managerial skills and experience for supervisors and team leaders
    - Knowledge of entities, groups, and individuals that interact with the government and programs subject to the OIG's jurisdiction[5]
    - Experience in regulatory and compliance issues in the public sector
    - Not having been an officer of a political party for ten years prior to appointment

- **Selection/Appointment:** A committee of members of minority and majority parties of the legislature (not exclusively members of the public safety committee) should be on the hiring committee as well as a community leader chosen by the advocacy community, and a representative leader of an NGO involved in working with under-served communities, one representative from the County Executive's office, and the finance chairman of the legislature.

- The County shall publicly announce the opening of the position to the non-profit community and community members to invite nomination of community leaders and non-profit leaders, through e-mails, on the website, and in the newspaper. Community leaders should not be chosen by the police or, in the case of Nassau County, be connected to the existing Nassau County Policing Community Groups. These leaders work very closely with the police and may pose a conflict of interest in this particular selection process.

- The Inspector General's term shall be at least 5 years to ensure the position extends beyond any administration's set term to disentangle political allegiance or loyalty, with an option for extension for an additional 2 years.

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[5] "Principles and Standards for Officers of Inspector General," Association of Inspectors General, May 2014, http://inspectorsgeneral.org/files/2014/11/AIG-Principles-and-Standards-May-2014-Revision-2.pdf pg. 13

Authority, Powers, and Duties (not comprehensive)

- Authority to audit, inspect, evaluate, and investigate the activities, records, policies, and data collected by the police department

- To receive all copies of complaints received by the department and all communications with complainants tracking the progress of investigations

- To develop tracking and monitoring systems of complaint process, investigation progress, and communication with complainants

- May attend all meetings held by the police department

- To establish an anonymous hotline for whistleblowers and Officers wishing to anonymously register incidences of misconduct

- Legislation should include whistleblower protections for those who might be subjected to retaliation by their employers

- To have subpoena power for documents and persons testimony, and investigative power, and to actively conduct investigations

- To have subpoena power accompanied by enforcement provisions

- To obtain requested documents from other governmental and non-governmental entities

- To refer matter for civil, criminal, and administrative actions to appropriate administrative and prosecutorial agencies

- Require public employees of the police department to report to the OIG information regarding fraud, corruption, illegal acts. and abuse

- The OIG shall receive all data, including demographics, collected from the police department, in all categories described under the People's Plan proposed STAT Act (pedestrian, bike, and vehicle stops, use of force and less than lethal use of force, arrests, complaints, language access, hate crimes, surveillance technology deployment, etc.), create mechanisms for tracking and aggregating data to identify patterns and practices, and have access to all data-bases upon request

- The OIG shall receive all police department policies, directives, and memos issued internally, review for best practices, communicate reviews to Police Commissioner in writing, cc'ing the Public Safety Committee of the legislature, and include in bi-annual report to the legislature

- Bi-annual report to the public safety committee of the legislature, the County Executive's office, put on the website, and issued at a public hearing to include demographic data on use of force and less than lethal use of force incidents, outcomes, injuries, pedestrian, and vehicle stops, number of complaints with accompanying demographic percentages by complaint and by population percentages across all complaint categories, and outcomes in all four outcome categories, including disciplinary categories, and all other data outlined above.

- The Inspector General will receive all Memoranda of Understanding between the police

department and schools, review for model recommendations, and enforce filing of MOU's with the OIG.

- The Inspector General will receive all reports and incidents of police activity in schools, police contact with students in schools and police participating in discipline of students at schools, particularly the position of Homeland Security Liaison.

- The OIG will monitor language access compliance at all precincts and conduct random phone and on-site testing for signage compliance, create results report to be shared with the public safety committee of the legislature, the County Executive's office and the public on a bi-annual basis. Make recommendations for policy and implementation changes and re-test for compliance. Will have access to all language line usage data, and will monitor the Counties website for translation of vital documents including PDFs.

Independence

- Removal of the inspector general should only be for cause

- The OIG should not be physically housed inside the police department, or inside the Executive Building

- Interactions between the OIG and the finance committee of the legislature should be limited as the OIG will be dependent on the finance committee for funding

Inspector General

Nassau and Suffolk Counties are responsible for two police forces among the largest in the country yet they operate with very little oversight, data reporting requirements, or accountability measures. It is important to institute a system of oversight which would optimally include a CCRB and comprehensive Public Safety Committee oversight, coupled with a strong Police Inspector General's office.

Powers and Duties to include:

- Authority to audit, inspect records, policies and data.
- Receive and track **all complaints, investigations, and communications** with complainants.
- Require public employees of the P.D. to report info. regarding **fraud, corruption, and illegal acts**, with requisite whistleblower protections
- **Analyze and evaluate data**, write reports and publicly issue reports to a CCRB, the Public Safety Committee of the Legislature, and place reports on the county website.
- Receive all reports and data on **police activities in schools** including discipline and arrests.

A **strong Police Inspector General's** office would have:

- **The appointment process is transparent** and done by committee comprised of Executive and Legislative branches, community members, and relevant experts.
- Powers granted include **subpoena, investigative, and reporting.**
- Powers include **access to all government agency records.**
- **Protection of employees** under whistleblower laws.
- **Dual reporting role** to the Executive and Legislative Branches
- and will be **funded fully.**

Police Statistics and Transparency (STAT) Act:
Data Collection, Reporting, and Analysis

Section Summary

Right now, in New York State, most people are in the dark when it comes to data and statistics on policing in their own communities. Law Enforcement agencies have only recently been required to collect data on Use of Force incidents, based on the passage of the Police Statistics and Transparency Act (STAT Act) in June of 2020. They are not required to either collect or report statistics on other important aspects of policing. Passage of a more comprehensive version of the STAT Act at the local level would require both collection and reporting of information that will help to build trust and transparency. This data will assist in identifying areas of policing that reveal racial disparities and will allow agencies to implement preventative measures.

At present, Nassau County is still not required or able to collect or report vital data that would illuminate the effects of policing on communities of color. Currently, old and new field data is spread across four different platforms – PremierOne, Swift Justice, I/LEADS, and CAD – with no ability to share across these platforms, making Freedom of Information Law (FOIL) response difficult, if not impossible. In 2018, the New York Civil Liberties Union (NYCLU) published Behind the Badge, providing the results of FOIL requests issued across New York State police departments. Nassau County was unable to provide any data on stops, enforcement of low-level offenses, or statistics related to officer training, stating, "Retrieving such data and generating reports in response to the request would require NCPD to create a new data retrieval program." Passage of the STAT Act would force the department to centralize its data bases and begin the process of becoming a more transparent and accountable department.

Suffolk County presently collects some data on traffic stops, publishes the raw data on the SCPD website, and retains the services of an outside vendor to analyze these data. This is done pursuant to the requirements of the 2014 Consent Agreement with the U.S. Department of Justice. However, the SCPD is not required to continue these practices following the end of the agreement. Therefore, the obligation needs to be codified.

The data collection in Suffolk County needs to be expanded to bring it into alignment with the best 21st century policing recommendations. Data collection and making data, policies, and procedures publicly available through official website(s) will increase transparency.[1] Traffic stop data is only one piece of policing. Both counties need to be transparent about their policing practices including traffic stops, pedestrian ("Terry") stops, bicycle stops, 911 calls, civilian complaints, use of force incidents, hate crimes, surveillance technologies, asset forfeiture, police in schools, and language access. Our recommendations regarding data collection policies are set forth below.

Two additional recommendations are necessary. There needs to be meaningful oversight of the practices of police departments and that oversight needs to be done by the Public Safety Committees of each legislature. This recommendation is discussed in depth in the section on Public Safety Committees. This oversight of the police department is crucial because of the experience of Suffolk County. There,

[1] COPS Office, "President's Task Force on 21st Century Policing Implementation Guide: Moving from Recommendations to Action," Washington, DC: Office of Community Oriented Policing Services, 2015, https://policingequity.org/images/pdfs-doc/reports/TaskForce_FinalReport_ImplementationGuide.pdf

the SCPD intentionally posted duplicates of their raw traffic stop data for 3 years. The duplicates were not removed from the website until advocates at UJPLI brought the matter to the attention of the Police Commissioner and the County Executive. The duplicates appear to have influenced the start date of the Finn Institute's analysis (Finn was hired as the outside vendor to analyze the county's traffic stop data). Specifically, their analysis relies on a curious start date (March 5, 2018), which sidesteps the majority of duplicate records.

Second, the selection of a vendor to perform the analysis of published raw data needs to be done with care and include advocates. Here, we point to the problematic work by the Finn Institute. The work of the Finn Institute is grounded in bias[2] and demonstrates insufficient methodological rigor. The Finn Institute's published research reveals consistent bias against restorative justice, an approach that is stipulated in Executive Order No. 203 and in the DOJ agreement. Restorative justice is recommended in Community-Oriented Problem-Solving policing and civilian oversight of police, and is an approach which enjoys broad and growing public support.

Finn's conclusions, particularly with respect to whether bias exists in the initial stop decision, are wrong. The police and the community are not served by this kind of analysis. Neither oversight, reform, or praise can happen in the absence of competent, unbiased analysis. We share the concerns in depth to fully support our recommendations regarding how researchers must be chosen for future analysis of policing data in both counties. The lessons from Suffolk should inform the selection of vendors to analyze policing data in both Nassau and Suffolk counties.

UJPLI Analysis of the Finn Institute's Report on SCPD Traffic Stop Data

There appears to be a disconnect between empirical evidence and speculative conclusions – namely the conclusion that racial bias is unsupported by empirical evidence. Finn uses unreliable methodologies coupled with dubious and unsubstantiated ill-reasoned concluding claims. For example, on page 54:

> **"Other explanations are conceivable, though we could not examine them with the data available to us. One factor, which was found in one previous study to account for racial disparities in searches, is the driver's criminal history. We might expect that officers would more thoroughly question and otherwise investigate drivers with a criminal history…Our inability to take proper account of these factors is reason to be cautious in drawing inferences about the role of bias from the remaining disparities."**

This argument relies on a single study that is based on a "theoretical framework of officer suspicion" which suggests that "disparities in discretionary search patterns were explained by citizen criminal history, and when controlling for this fact, the effects of race are mediated to some extent."[3] The most

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[2] Worden, Robert E., Heidi S. Bonner and Sarah J. McLean, "Procedural Justice and Citizen Review of Complaints against the Police: Structure, Outcomes, and Complainants' Subjective Experiences," *Police Quarterly 21*, (1), 2018, doi: doi.org/10.1177/1098611117739812 pg. 77-108; Worden, Robert E., and Sarah J. McLean, "Measuring, Managing, and Enhancing Procedural Justice in Policing: Promise and Pitfalls," *Criminal Justice Policy Review 29*, (2), 2018, http://www.jjay.cuny.edu/sites/default/files/contentgroups/p2ph/Worden%20%26%20McLean%20Measuring%20%26%20Managing%20Procedural%20Justice.pdf pg. 149-171; Worden, Robert E., and Sarah J. McLean, "Mirage of Police Reform: Procedural Justice and Police Legitimacy." Oakland, CA: University of California Press, 2017, ISBN-13: 978-0520292413; Worden, Robert E. and Sarah J. McLean (2015) Police Legitimacy, Procedural Justice, and the Exercise of Police Authority. Research In Brief, *The Police Chief*, International Association of Chiefs of Police, 82: 14-16.

[3] Tillyer, Rob, Charles F. Klahm IV "Discretionary Searches, the Impact of Passengers, and the Implications for Police-Minority Encounters." *Criminal Justice Review*, 2015, doi.org/10.1177/0734016815581049

objectionable suggested explanation is the attempt to imbue officers with prescience as regards vehicle occupants' criminal histories. To the degree that officer knowledge of individual criminal histories informed any individualized and particularized stop and enforcement decisions, Finn had more than sufficient time and access to source records and the principals to verify and quantify those instances. It clearly chose to pass on that opportunity and to offer "*maybes*" instead.

More concerning is the fact that Finn's suggestion of officer prescience regarding vehicle occupants' criminal histories is inconsistent with relevant operational restrictions. NY Statewide Police Information Network (NYSPIN) is regulated by NY Codes Rules and Regulations. Criminal histories are generated through NYSPIN File 15s. NYS VTL Section 504 prohibits transmission of VTL conviction information via two-way radio and NYSPIN terminals unless such information is relevant to the particular stop circumstance — such as the prior DWI conviction of someone stopped for DWI. File 15s require special authorization, are typically run by investigators, are not run for routine traffic stops, do not return during the pendency of routine traffic stops, and are not ordinarily accessible to patrol officers. Thus, officers would not properly access information about the criminal history of most drivers prior to pulling them over in a traffic stop. And, finally, as DOJ expressly stipulated in its January 13, 2015 Compliance Report:

> *"Vehicle stops can only be legally justified when conducted pursuant to reasonable suspicion/ probable cause of the commission of a crime, or personal knowledge that a Vehicle and Traffic offense has occurred in the officer's presence."*

The methodologies relied upon to draw conclusions, as well as the interpretation of the findings to draw said conclusions, provides further basis for our concern.

Veil of Darkness Methodology

The Finn Institute implements the Veil of Darkness Technique, which in and of itself is questionable. The test is that there should be a greater risk of being stopped due to race during daylight hours when color of skin is more visible. In general, the model assumes visibility is indeed reduced at night, which may not hold true in urban areas with appropriate street lighting. The model also assumes that the make-up of drivers by race is the same throughout the hours of the day, which makes assumptions about work hours across occupations and race.

Despite these assumptions, UJP analysts applied the veil of darkness methodology and do find evidence of bias. Models 1 and 3 from the Finn report are replicated. UJP analysis controls for racial make-up in the population, which is an important factor. Finn does not mention such a control in the report, so it is not clear whether their analysis does so, but this could explain the discrepancy in findings. Not including it would underestimate racial disparities. Specifically, we re-estimate elements of Table 16 of the Finn Report and report the findings in the table below. The model 1 replication results are those using the same sample that Finn used. Our findings show that Hispanics are significantly more likely to be stopped in daylight hours. The Model 3 replication uses the same sample as Finn on the twilight analysis. This is at a time before street lighting is on and visibility may indeed be impaired. Hispanics and Blacks are less likely to be stopped at this time in our analysis.

On page 20 of the Finn report they draw thisthe following conclusion despite an analysis that is flawed as stated above:

> *"The results of the veil-of-darkness analyses all lead to the same conclusion that in making*

the initial stop, Suffolk County police display no systematic bias against either Blacks or Hispanics. Though Black and Hispanic drivers are overrepresented in traffic stops relative to their proportions of the County population, we surmise that the disparities are attributable to factors other than race/ethnicity."

We expand on the Finn models of the VOD analysis across more years and analyzing stops during twilight hours. *In the twilight models we do find evidence of bias in that when vision is impaired at twilight people of color are stopped less.* If we include the duplicated records in the analysis, it becomes clear they are non-random by race given the story is reversed. In sum, the VOD methodology is not strong enough to rule out racial bias. Without further analysis, the claims on page 20 are not founded.

COMPARISON OF: VOD FINDINGS
FINN INSTITUTE cf(Model 1) / UJPLI FINDINGS (Models 1 & 1a)
UJPLI FINDINGS INCLUDING DUPLICATES (Model 1b)

	Model	Description	RRRBlack (P)	RRRHispanic (P)
Daylight	Model 1 Finn	All Stops 2018-2020, daylight	0.973 (0.750)	0.990 (0.893)
	Model 1 Rep	All Stops 2018-2020 day n=25410	0.90 (0.000)	1.03 (0.010)
	Model 1a	All Stops 2014-2020 day n=686510	0.88 (0.000)	1.07 (0.000)
	Model 1b	All Stops with dupes day n=802312	0.67 (0.000)	0.79 (0.000)
Twilight	Model 1 Finn	All Stops DST 18-20	0.979 (0.836)	1.090 (0.363)
	Model 1 Rep	All Stops 18-20 Twilight	0.90 (0.009)	0.86 (0.000)
	Model 1a	All Stops 14-20 Twilight	0.91 (0.001)	0.99 (0.532)
	Model 1b	All Stops with dupes Twilight	1.45 (0.000)	1.07 (0.003)

Propensity Score Matching Methodology

This methodology is widely used in studies aimed at disentangling discrimination from explained disparities (Rosenbaum & Rubin, 1983; Morgan & Winshop, 2014).[4] It has become a popular evolution from the Blinder-Oaxaca Decomposition (Blinder, 1973; Oaxaca, 1973).[5] It relies on a number of assumptions that, if not founded, can exacerbate biased analysis stemming from inconsistent and imbalanced data. In other words, it hinges on some assumptions surrounding what we refer to as the Xs in the model – which are the observable variables used to match Blacks and whites or Hispanics and whites.

Finn used the following Xs: Initial reason for the stop, time, day, month of the stop, number of occupants, number of equipment violations, driver age and sex, and crime rates in region of stop. One of the weaknesses of the model is that it throws away observations that remain unmatched. For the model to work, there has to be at least some positive probability that a match exists between the two treatment groups – in this case Blacks and whites (we focus on Blacks and whites but the analysis was conducted

[4] Rosenbaum PR, DB Rubin "The Central Role of the Propensity Score in Observation Studies for Causal Effects," *Biometrika*, vol 70, no. 1 pg. http://links.jstor.org/sici?sici=0006-3444%28198304%2970%3A1%3C41%3ATCROTP%3E2.0.CO%3B2-Q 41-55. Morgan SL, C Winship (2014), "Counterfactuals and Causal Inference: Methods and Principles for Social Research," Cambridge University Press. ISBN: 9781107587991.

[5] Blinder, A. S. (1973). "Wage Discrimination: Reduced Form and Structural Estimates." *Journal of Human Resources*. 8 (4): 436–455. Oaxaca, R. (1973). "Male-Female Wage Differentials in Urban Labor Markets." *International Economic Review*. 14 (3): 693–709.

on Hispanics and whites as well). If you have one white stop observation that meets the criteria, you can match any number of Black stops to that observation. If the one white stop is more likely to be one where there is a search and a particular hit rate than the Black stop observations, you will bias the severity of the treatment of whites.

The bottom line is what they are uncovering is how Blacks would be treated if they were stopped in the same neighborhood, at the same time period, with the same number of passengers, with the same number of equipment violations – if they were not Black, but rather white. The goal is to set up an experimental design where we control for everything that matters but color of skin. But are whites who are stopped in the same community (which is correlated with socioeconomic status), and who are the same in these attributes, treated the same as their Black counterparts? The answer is no.

Despite these errors in analysis, inequalities persist in their findings for the most part – as they acknowledge. There is one exception – in the cases of person searches they find that there is no difference in the likeihood to find contraband between Blacks and whites. Blacks are more likely to be searched, but they are no different than whites who are searched in terms of guilt – according to this analysis. Finn's interpretation, on page 49 of their report, is that the searches were equally warranted:

> *"Though Black drivers are more likely to have their persons searched, those searches are not less likely to produce contraband. Though the inferences from such "outcome tests" can be misleading, as we discussed above, the findings concerning person searches that result in nothing found should give readers pause in reaching a conclusion about bias in searches of persons."*

Once again, they use a problematic methodology and highlight a finding that is not consistent with bias, to caution the reader against believing there is racial bias in policing. On the methodology, in a recent paper (2019) published in the journal *Political Analysis*, King (Harvard) and Nielson (MIT)[6] conclude the following:

> *"However, in the case of PSM [propoenstiy score matching], the problem is not merely information discarded but the damage PSM causes by continuing to prune after it has nearly accomplished its goal of approximating a completely randomized experiment; in this situation, the PSM paradox will kick in and pruning observations will also increase imbalance, model dependence, researcher discretion, and bias." P. 17*

The analysis performed by Finn suffers from these weaknesses. Their use of propensity score matching led them to the biased conclusion that there was no racial biases in searches following traffic stops. Alternative approaches with sensitivity analysis would be recommended. King and Nielson (2019) recommend a form of Coarsened Exact Matching (CEM).

Impact on Community Member Lives

Passage of a STAT Act will allow members of the community, and oversight entities, to have direct access to illustrating the impact of police practices. This builds trust and transparency between the police and the community and also allows the community to hold the police accountable when the data shows clear racial disparities.

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[6] Gary King, Richard Nielsen "Why Propensity Scores Should Not Be Used for Matching," Institute for Quantitative Social Science, Harvard University; Department of Political Science, Massachusetts Institute of Technology; 2019, https://doi.org/10.1017/pan.2019.11

The Proposal

Police departments must collect comprehensive data on all facets of police/civilian interaction, publish the raw comprehensive data on their websites, and hire independent vendors from local institutions of higher education to analyze the data, prepare written reports, and inform the public and county legislatures.

In particular, as explained below, police departments must collect data on injuries and use of force during police/civilian encounters and on officer-initiated stops, including both traffic and pedestrian stops.

Injury Data / Use of Force and Less than Lethal Use of Force
Currently, the New York State STAT Act calls for data on arrest-related deaths. This fails to hold police accountable for any injuries, short of death, experienced during police encounters, with no accompanying demographic information. For example, in Chicago, they are required to keep data on all taser use that causes bodily harm. Economics Professor Bocar Ba, the developer of the Citizens Police Data Project and Professor at University of California Irvine, said, "Violations of citizens constitutional rights decreased by 25-34 percent once police officers became aware their complaint history would become public."[1] Professor Bocar Ba studies police behavior, with a specialty in Use of Force.

Use of Force or Threat of Use of Force
Data should be required concerning Use of Force, Less than Lethal Use of Force, and a Threat of Use of Force. This includes if and when a firearm is pointed at someone. Research has shown that more restrictive Use of Force policies lead to a large decrease in police killings.

Traffic Stops
Currently in New York State, there is no requirement to collect traffic stop data. There are currently 19 states that require collection of driver information for vehicle stops, including Alabama, South Carolina, and Kansas. In South Carolina, for example, a database is required to include age, gender, and race of drivers for all stops. Police officers in the United States stop over 50,000 people every day[2], making data collection a vital tool to monitor pre-textual practices and racial bias and to highlight the financial burden associated with fines and fees. According to the Policing Project at NYU School of Law, fines and fees from traffic stops can result in financial burdens, and research suggest that these fines and fees disproportionately burden people of color.[3]

Data on Pedestrian Stops
Data collection surrounding pedestrian stops is also a key element to identify and combat racial disparities in law enforcement. According to the ACLU of Illinois, the collection of this data allows transparency and correction, resources (such as specialized training) to be provided when needed, the honest efforts of law enforcement professionals to be demonstrated, and the civil rights of citizens to be protected.[4] The recommendations of data collection at pedestrian stops include gender, age, race, alleged violation or reason, date, time, location, whether contraband was found or seized, officer name and badge number, if pat down or frisk was conducted and the reason that led to it, as well as if consent was given, and lastly, record of violation, offense, or crime alleged or charged.

Data on Police Presence and Activities in Schools/SROs
Reporting of enforcement activities involving children in school must be transparent and comprehensive. Police Departments must collect/analyze/publish comprehensive data regarding SROs/police in schools.

Necessary Components of a STAT Act
Publish a list of databases used to collect all data, with an outline of what each database collects.

I. Definitions

1. Routine or Spontaneous Law Enforcement Activities — are actions taken by members of the Department in the course of official duties, such as:
    a. vehicle stops and searches;
    b. pedestrian stops and questioning ("Terry" stops);
    c. frisks and bodily searches;
    d. consensual and non-consensual warrantless searches of persons or property; and
    e. detentions, arrests, or issuance of summonses.

2. Bias-Based Policing — is synonymous with "discriminatory policing" and means selective enforcement or non-enforcement of the law, including the selecting or rejecting of particular policing tactics or strategies, based upon an individual's race, ethnicity, national origin, age, gender, religion, disability, status as a victim of domestic violence, English language proficiency, income, sexual orientation, or gender identity.

3. Traffic Stop (T-Stop) — any time a police officer initiates contact which results in the detention of a motorist, including checkpoints, roadblocks, and driving under the influence. A traffic stop does not necessarily include those contacts initiated to provide assistance to a motorist, or any contacts resulting from broadcast notifications or calls for service. [A stop based on a report of reckless or dangerous driving, suspected crime, etc. is a traffic stop]

4. Pedestrian Stop — any time a police officer initiates contact which results in the detention of a pedestrian, regardless how brief or the ultimate outcome of the encounter. A pedestrian stop does not include those contacts initiated to provide assistance to a pedestrian, or any contacts resulting from broadcast notifications or calls for service.

5. Bicycle Stop — any time a police officer initiates contact which results in the detention of a bicyclist, regardless how brief or the ultimate outcome of the encounter. A bicycle stop does not include those contacts initiated to provide assistance to a bicyclist, or any contacts resulting from broadcast notifications or calls for service.

6. Detention[7] — refers to any police-civilian encounter during which the civilian reasonably perceives that they are no longer free to continue on their way at their sole discretion. It includes, but is not limited to, the following: Officer makes an arrest or issues a citation, conducts a temporary detention (Terry stop), performs a ("Terry stop") and conducts a frisk, conducts a warrantless search (even if the search is consensual), displays a weapon, blocks a person's path or issues a verbal command to remain, takes a person's license or ID, tells a person to exit a vehicle or step off a bicycle, and/or tells a person to place their hands on the hood of the patrol car or the civilian's own vehicle. Detention is a particularized act; it does not include generalized security screenings at facilities or events, such as sports arenas or courthouses.

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[7] In its landmark 1964 ruling in Terry v. Ohio, the Supreme Court of the United States held, in relevant part: *". . . the Fourth Amendment governs "seizures" of the person which do not eventuate in a trip to the stationhouse and prosecution for crime — "arrests" in traditional terminology. It must be recognized that, whenever a police officer accosts an individual and restrains his freedom to walk away, he has "seized" that person . . ."*

II. **Data Collection**

1. General obligations of SCPD / NCPD and officers
    f. All data fields must be filled in correctly and completely by police officers and the department shall establish appropriate penalties for officers who routinely fail to correctly report their policing activities.
    g. The SCPD/NCPD must publish a glossary of terms and codes used in reporting and ensure that all terms accurately describe the reason for the traffic-stop and/or officer-initiated activity
    h. The SCPD/NCPD must develop specific policies to enforce data collection and publish the policies on its website

2. Data collected on all officer-initiated stops resulting in detention
    i. Data shall be collected on all officer-initiated stops resulting in detention as defined herein.
    j. Officers shall record the following information for every officer-initiated stop resulting in detention:
        i. Unique identifier for the stop
        ii. Type of stop:
            1. Vehicle/traffic, pedestrian, or bicycle
            2. Stop predicate — relevant statute and section(s) that informed the basis of reasonable suspicion
            3. Initiating Officer(s)
            4. Race/ethnicity
            5. Gender
            6. Age
            7. Rank (at date of stop)
            8. Geographic assignment (at date of stop)
            9. Department assignment (at date of stop)
            10. Number of officers involved
            11. Command
            12. Unique randomly generated and assigned alphanumeric designator that in no way codifies any personally identifiable information (ID#; Shield #; date of birth; Command, etc.)
            13. Uniformed or in plainclothes
            14. Method of identification (shield – identification card – both) if in plainclothes
        iii. Officer's initial perception of the person(s) being stopped
            1. Driver or passenger(s) if a vehicle stop (record data for each person in the vehicle)
            2. Perceived race/ethnicity
            3. Perceived before stop? Y/N
            4. Perceived gender (Male, Female, Transgender man/boy, Transgender woman/girl, Gender nonconforming)
            5. Perceived age
            6. Perceived English language proficiency (Y/N)
            7. Was language access offered? Y/N
            8. Was language access provided? Y/N
            9. Perceived homeless
            10. Perceived physical, mental, or developmental disabilities,
            11. Perception of whether the subject appears to be experiencing a mental or other behavioral health crisis.

iv. Stop details including
    1. Date: (e.g., 01/01/19)
    2. Start Time (approx.): (e.g., 1530)
    3. Duration of Stop (approx.): (e.g., 30 min.)
    4. Reason for stop/offense including, but not limited to:
        a. Call for service
        b. Intelligence-led: Intelligence-led policing emphasizes analysis and intelligence as pivotal to an objective, decision-making framework that prioritizes crime hot spots, repeat victims, prolific offenders and criminal groups."[8]
        c. Moving violation
        d. Matched suspect description
        e. Equipment violation
        f. BOLO
    5. Location/address
    6. Latitude/longitude
    7. Street address details
    8. Sector, precinct, district, police service zone, etc., and appropriate shapefiles/maps
    9. Location type (as coded by NIBRS/UCR)
    10. Whether stop occurred at a checkpoint
    11. Disposition(s) (e.g., citation, arrest, release)
    12. In case of arrest, indicate statute and section of top charge and whether defendant was released on an appearance ticket or held for arraignment.

v. Officer action during the stop, including
    1. No action or warning
    2. Citation with relevant statute and section of the top charge
    3. Arrest with relevant statute and section of top charge
    4. Whether a search was conducted
        g. On a person, occupant(s), and/or vehicle
        h. Nature of each search (e.g., incident to arrest, plain view, consent)
        i. Outcome of the search (type of contraband found, if any)
        j. Property seized during the search (name the property)
        k. Whether a canine was used during the search

vi. If use of force occurs
    1. Nature of contact (e.g,. traffic stop, pedestrian stop, bicycle stop, call for service, warrant)
    2. Was the stop officer-initiated? Y/N
    3. Disposition(s) (e.g., citation, arrest, release) for each subject
        l. List top charge with statute/section if cited or arrested
    4. Subject resistance (e.g., verbal aggression, physical, fleeing)
    5. Were de-escalation techniques used? Y/N (e.g., verbal judo, soft skills, social intelligence techniques that reduce the need for physical contact)
    6. Type(s) of force (e.g., restraint only, physical force, open hand, closed hand, impact device, chemical irritant, electrical weapon, water cannon, lethal)
    7. Did subject(s) possess a weapon? (type of weapon)
    8. Did subject(s) use the weapon?

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[8] Nate Huber, "Intelligence-Led Policing for Law Enforcement Managers." *FBI: Law Enforcement Bulletin*, FBI October 10, 2019, https://leb.fbi.gov/articles/featured-articles/intelligence-led-policing-for-law-enforcement-managers

9. Police weapons/tools used? Y/N (name the weapon/tool, e.g., handgun, OC spray, taser)
10. When a firearm is used by an officer, whether it was discharged
11. Number of officers involved by end of incident
    m. List each officer with their unique identifier
12. Camera on scene? Y/N
13. Camera activated/operating? Y/N

vii. Injuries
1. To officer(s)
    n. Nature of injury
    o. Extent of injury
    p. Emergency room or EMT required
2. To civilian(s)
    q. Nature of injury
    r. Extent of injury
    s. Emergency room or EMT required

3. Data collected on all calls for service
    k. The dataset should include police calls only (as opposed to EMS or fire safety calls). The dataset should include all priority levels.
    l. Incident Details
        i. Unique identifier
        ii. Location/address
            1. Latitude/longitude
            2. Street address details
            3. Precinct, sector, police service zone, etc., and appropriate shapefiles/maps
            4. Location type (as coded by NIBRS/UCR)
        iii. Call type (e.g., suspicious person, assault, narcotics)
        iv. Priority level (by number)
        v. Date and time of call
        vi. Date and start time of response
        vii. Duration of response
        viii. Was caller English language proficient? Y/N
            1. Did caller request interpreter? Y/N
            2. Was interpreter or language line provided? Y/N
            3. What language?
        ix. Disposition (e.g., report taken, unfounded)
    m. Subject description
        i. Perceived race/ethnicity
        ii. Perceived gender (male, female, transgender man/boy, transgender woman/girl, gender nonconforming)
        iii. Perceived age
        iv. Perceived English language proficiency
            1. Was language access provided? Y/N
        v. Perceived homeless
        vi. Perceived physical, mental, or developmental disabilities,
        vii. Perception of whether the subject appears to be experiencing a mental or other behavioral health crisis.
    n. Officer Demographics (this should include each officer involved)
        i. Race/ethnicity

ii. Gender (male, female, other)
iii. Age
iv. Injury/hospitalization
v. Agency years of experience
vi. Rank (at date of call)
vii. Geographic assignment (at date of call)
viii. Department assignment (e.g., patrol, SWAT, SRO) (at date of call)

4. Data collection on all IAB / IAU / Complaints
   o. By Command (subjects command and command of where the incident occurred)
   p. By location/neighborhood
   q. Race, ethnicity, gender, gender expression, sexual orientation, & religion of complainant
      i. Percent provided by complainant
   r. Number of complaints by category and precinct (unprofessional conduct, excessive use of force, unlawful conduct, false arrest, racial/ethnic bias, violation of department rules, neglect of duty, improper tactics/procedures, police impersonation)
   s. Outcome by category and precinct (founded, unfounded, undetermined, exonerated) including definitions and criteria parameters for each category
   t. Discipline for founded complaints
   u. Number of complaints sent back to command
   v. Number of complaints moved onto IAU by precinct
   w. Average duration of investigation by categories
   x. All documented communication with complainants
   y. Number of repeat offenders (more than 2 complaints) per precinct
   z. Relevant reports from Blue Team Complaint Tracking Program (Nassau)
   aa. Number of cases received, open/closed

5. Data collected on language access
   ab. Frequency of usage of in-house interpreters, including Department Authorized Interpreters, broken down by precinct, department, and language
   ac. Frequency of usage of professional contracted interpreters broken down by precinct, division, language
   ad. Number of LEP individuals arrested by precinct or division, primary language spoken, and data regarding provision of language assistance
   ae. Data related to the provision of language assistance related to domestic violence and intimate partner violence
   af. List of vital documents and any signage or materials which have been translated, into what languages, and where they are available
   ag. Data on internal language access audits conducted by police department
   ah. Number of bilingual officers and departmental personnel broken down by language and location
   ai. Data on outside proficiency evaluation of bi-lingual officers (not based on self-reporting)

6. Data collected on police officers / SROs in schools
   aj. Police departments will publish on their website the total number of police officers deployed in school districts, the names of districts and schools where officers are deployed, and the MOUs between the school districts and the police department
   ak. Data shall be collected on all interactions between students and law enforcement/SROs in schools hat involve enforcement of Code of Conduct, rules and regulations and/or suspected criminal conduct

al. Student/law enforcement interactions in schools involving enforcement of violations of Code of Conduct, rules and regulations, and/or suspected criminal conduct
    i. For each student
        1. Race/ethnicity, gender, and age of student
        2. School facility
        3. Type of officer involved (SCPD SRO, Precinct SRO, Countywide SRO, precinct officer/detective/unit).
        4. Number of warrantless searches of student's person conducted on school grounds
        5. Number of warrantless searches of student's possessions, including mobile devices, conducted on school grounds
        6. Searches of student's persons and/or possessions, including mobile devices, by school staff, in the presence of law enforcement, in the absence of their custodial parent(s) and or counsel pursuant to potential or suspected criminal conduct
        7. Individualized, particularized elements that compelled the warrantless search of the minor child for each student
        8. Contraband seized from each student searched
        9. Number of interrogations/questioning of student
            a. Students compelled to speak to law enforcement, in the absence of their custodial parent(s) and or counsel about violations of administrative policy, rules and regulations
            b. Students compelled to speak to law enforcement (SRO, Precinct SRO, Countywide SRO, precinct officer, detective etc.), in the absence of their custodial parent(s) and or counsel about potential or suspected criminal conduct
            c. Number of interrogations that resulted in students being surveilled/investigated off school grounds and SCPD unit?
        10. Whether or not student was arrested
            d. If arrested, the charge, statute, and section
        11. Whether or not the student was subjected to school disciplinary proceedings
        12. Whether or not law enforcement participated in discipline, including disciplinary hearings for violations of administrative policy, rules and regulations
        13. Whether or not student records were shared with law enforcement

7. Data Collected on Hate Crime / Bias Incidents
    am. Record and track all hate crimes, non-designated hate offenses, and hate and bias incidents
    an. Date, time, precinct, and latitude and longitude of incident
    ao. Classification and information about victims property, i.e., public, private, car, house, fence, etc.
    ap. Mechanism used to register complaint, e.g., 911, phone, e-mail, precinct officer, type of property, nature and value of property
    aq. Type of damage and method used, such as paint, etching, noose
    ar. Age, race, gender of victim and suspect, suspect description, if applicable, including gender, race, age, religion, sexual orientation, and ethnicity
    as. Statute and section used for classification
    at. Is suspect is ricidivist
    au. If arrested, indicate charge information

av. Referrals for support for both victim and suspect

8. Data Collected on Surveillance Technologies
    aw. List of all surveillance technologies purchased or in the process of being purchased during reporting period
        i. Review of policy attached to technology
        ii. Vendor contract and provisions
        iii. Disclosure of RFP's in process
        iv. Costs of acquisition and ongoing usage
        v. Trainings associated with usage
    ax. List of surveillance technologies currently used by the department
        i. Locations of deployment/frequency of deployment
        ii. Disclosure of any technologies using facial recognition
        iii. Disclosure of any technologies using algorithms
        iv. Accompanying storage, handling and access policies for video footage
        v. Vendors/board of directors
    ay. Trainings
        i. Costs

9. Data Collected on Asset Forfeiture
    az. Financial disclosure of total amount of asset forfeiture for the reporting period
    ba. Break-down of asset forfeiture totals by location, neighborhood, precinct
    bb. Disclosure of profit allocations
    bc. Where are they happening, what are the arrest breakdowns (charges on seizures), how much told to give back, how much did you seize, how much did the court sanction the taking?

10. Miscellaneous
    bd. Purchase of social media data

III. **Data Reporting**

1. The Suffolk County Police Department / Nassau County Police Department shall maintain a database containing all information for police/civilian contacts listed in Part I, above

2. The raw data shall be published quarterly on the SCPD / NCPD website — by March 31, June 30, September 30, and December 31 of each year

3. Raw data shall be published in delimited text format data files

4. The SCPD / NCPD must check the validity of the data for duplicate or mis-coded data as well as inconsistencies in the data and make any necessary corrections to the reported data

5. UCR crime and arrest data by precinct and sector shall be reported to the public on the SCPD / NCPD website and to the Public Safety Committee of the Legislature quarterly

6. Data on all motor vehicle accidents and related injuries, fatalities and value of property damage by precinct and sector shall be published on the SCPD / NCPD website and reported quarterly to the PSC of the Legislature

IV. **Data Analysis**

1. The Suffolk / Nassau County Police Department shall hire a qualified local public or private college or university to perform a bi-annual analysis of the data collected and reported above
    be. The researcher will be a person, center, department of institute with recognized scholarly expertise
        i. Scholarly means a person, center, department, or institute of an institution of higher education who has recognized experience in conducting in-depth research, often containing specialized vocabulary and extensive references to sources. The content or previously published research of such person, center, department or institute has been reviewed by academic peers to ensure the reliability of methods used and the validity of findings
        ii. Expertise refers to an individual or entity with advanced academic credentials, a record of peer-reviewed publications in the fields of criminal justice, criminology, and/or policing, and a reputation among peers as an expert

2. The RFP for policing data analysis from the county shall be reviewed by advocates

3. All proposals sent in response to the RFP shall be made available to advocates for review and assessment

4. Decisions to select a particular vender for the policing data analysis will be made in consultation with advocates

5. The RFP, proposals tendered, and contract with the vender who is selected shall be posted on the SCPD / NCPD website so that the process is transparent to the public

6. Such analysis will include evaluation of whether biased policing is occurring

7. The bi-annual analysis shall be reported in writing to the public by posting on the SCPD / NCPD website and to the PSC of the Legislature by delivery by July 30th for the first two quarters of the year and by January 31st for the second two quarters of the preceding year

V. **Legislative Oversight**

1. The Public Safety Committee is charged with oversight of the policing practices and policies of the SCPD / NCPD

2. The Public Safety Committee shall hold hearings to evaluate the practices of the SCPD / NCPD within 30 days of the receipt of each bi-annual analysis of policing data from the institution of higher education hired by the county to perform the analysis
    bf. The Commissioner of the SCPD / NCPD will be required to be present at such hearing(s) to report on policing policies and practices regarding biased policing and to answer questions from members of the PSC
    bg. Members of the public, including representatives of community groups, shall be entitled to question the Commissioner during such hearing(s)
    bh. The PSC shall also accept for evaluation scholarly analyses of the county's PD published policing data by experts working with community groups
        i. Scholarly means a person, center, department, or institute of an institution of higher education who has recognized experience in conducting in-depth research, often containing specialized vocabulary and extensive references to sources. The content or previously published research of such person, center, department or institute has been reviewed by academic peers to ensure the reliability of methods

used and the validity of findings

ii. Expert refers to an individual with advanced academic credentials, a record of peer-reviewed publications in the fields of criminal justice, criminology, and/or policing, and a reputation among peers as an expert

STAT Act

Law Enforcement agencies have **only recently been required to collect data** on Use of Force incidents, based on the passage of the Police Statistics and Transparency Act (STAT Act) in June of 2020. Passing a comprehensive STAT Act at the local level would require both collection and reporting of information:

both counties need to be ***transparent about their policing practices*** including traffic stops, pedestrian stops, bicycle stops, 911 calls, civilian complaints, use of force incidents, hate crimes, surveillance technologies, asset forfeiture, language access, and police/SROs in schools.

- Police Departments should be required to collect, maintain, and publish data on **all police actions**.

- The vender to perform the analysis of ***published raw data*** needs to be selected from proposals by local institutions of higher education and the **process should include community advocates**.

- The **Public Safety Committees** shall be charged with oversight of the practices of the police department, including practices identified in analysis of published policing data.

Specific **data collection** proposals:

- Data must be collected on:
  - all officer-initiated stops resulting in detention; all calls for service; all IAB (Suffolk) / IAU (Nassau) Complaints; Surveillance Technologies; Hate Crime, Hate Incidents, and non-designated hate offenses; Language Access requests, responses, and use; and Asset Forfeiture

Specific **data reporting** proposals:

- Each Police Department shall maintain a database containing all information for police-civilian contacts
- The raw data shall be published quarterly on the police department's website (in delimited text format data files)

Specific **data analysis** proposals:

- Each Police Department shall hire a qualified local public or private college or university to perform a bi-annual analysis of the data collected and reported

Specific **oversight** proposals:

- The Public Safety Committees shall perform oversight of the policing practices and policies those depts.

Public Safety Committee Oversight

Section Summary

There are many mechanisms for overseeing police behavior, including internal discipline, civilian review boards, civil lawsuits, and criminal prosecutions.[1] Policing is largely a local matter and legislatures exercise oversight in their budget processes but often have a hands-off approach to policy within departments. While we do not recommend micromanaging police, the role of the legislature in oversight is crucial.[2] It is the legislature that represents gravitas and the power of the people through elected representatives. While legislatures have stepped in with legislative investigations in cases of crises in policing, what is needed is more oversight of the policies that structure the daily work of police – particularly in terms of law enforcement practices and transparency. Best practices for the 21st century require data collection, reporting of raw data to the public, and independent analysis of the data.[3] But the police cannot be expected to police themselves, and experiences on Long Island confirm this point. For example, the SCPD posted false duplicate traffic stop data on its website in violation of the Consent Agreement requirements for 3 years. Irregularities in public reporting on hate crimes, IAB investigations, and traffic stops continue. On questions of policing practices in traffic stops, pretextual stops, use of force, school resource officers, language access, and other issues, as discussed in the People's Plan, it is legislatures that must set standards and establish meaningful oversight mechanisms.[4]

In both Nassau and Suffolk Counties, the oversight that exists happens through the Public Safety Committees.[5] Therefore, we recommend that these committees be charged with more active and engaged oversight. This includes legislating standards for police practices, demanding ongoing data collection and reporting on those practices, requiring reporting by the commissioners of the respective departments on a regular basis at hearings, ensuring independent and unbiased analysis of the data on police practices, and engaging in legislative inquiries where needed.

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[1] Mary M. Cheh, "Legislative Oversight of Police: Lessons Learned from an Investigation of Police Handling of Demonstrations in Washington, D.C.," *GW Law Faculty Publications & Other Works*, 2005, https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=1467&context=faculty_publications

[2] "The aim of legislative oversight is not to micro-manage police decisions, but to structure those decisions in line with best practices and to maintain constitutional boundaries. Acting through their elected representatives, communities can have a say, for example, in whether shoot to kill policies should be liberalized or whether, and under what circumstances, random searches may be conducted of anyone traveling on a bus or a train, or the extent to which the police may maintain dossiers on individuals or groups" Ibid. 3

[3] Marie Pryor, Farhang Heydari, Philip Atiba Goff, Barry Friedman "Collecting, Analyzing, and Responding to Stop Data:A Guidebook for Law Enforcement Agencies, Government, and Communities," Center for Policing Equity, Policing Project at New York University School of Law, https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

[4] "3 Indeed, while courts are often seen as the vehicle for counter-majoritarian protection of individual rights from the police, the D.C. Metro Police Department investigation proves that legislatures are uniquely capable of reinforcing individual liberties through democratic means. For a discussion of the relationship between democracy and law enforcement, see David A. Sklansky, Police and Democracy, 103 MICH. L. REV. 1699 (2005) (discussing theories of democratic pluralism, participatory democracy, and deliberative democracy as they apply to various issues in policing)." pg. 4, fn 13

[5] § 111. Committees. 1. There shall be established the following standing committees of the County Legislature: rules; finance; public works; public safety; health and social services; government services and operations; planning, development and the environment; and minority affairs. 2. Each such committee shall be responsible, and shall report, to the County Legislature, by such means, in such manner and at such times as the County Legislature may prescribe. 3. Notwithstanding the provisions of subdivision one of this section, the County Legislature may, by resolution, establish additional standing committees and may divide the work and jurisdiction of the committees listed above among the additional committees so established. 4. The size, composition and the appointment of the members of each standing committee shall be determined in accordance with the rules of the County Legislature. https://www.nassaucountyny.gov/DocumentCenter/View/22437/County-Charter-as-of-January-2nd-2020?bidId=

The Problem

The Nassau County Police Department is currently not required to share, report, or answer to anyone inside the Nassau County governmental structure or to the public. They are not required to collect any data, and subsequently report any data, leaving them unable to respond to Freedom of Information Law (FOIL) requests, making the already awesome power of the state they currently hold completely unaccountable. This state of affairs is egregious and untenable. In 2015, the New York Civil Liberties Union submitted FOIL requests for stop data in Nassau County and was told, "Retrieving such data and generating reports responsive to the request would require NCPD to create a new data retrieval program."[5] More recently, another attempt revealed that regarding the storage of field reports, there are four electronic systems – PremierOne, Swift Justice, I/LEADS, and CAD – and depending on the year, location, and type of incident, there is no mechanism to make those reports cross platforms. Again, the department has not created a system that allows them to share how they operate with the public.

The Suffolk County Police Department is somewhat more accountable because of the Department of Justice consent agreement it has been under since 2014. However, according to the Finn Institute,[6] even with some accountability measures in place, recent findings point to bias in policing. Moreover, the data collection and reporting requirements from the Consent Agreement are only present in SCPD policy and may not continue once the county is in full compliance with the agreement. It is crucial that progress in accountability and transparency continue, as mandated with traffic stop data, and the way to ensure this is to codify requirements to collect, publish and analyze policing date.

Our Process

Members of UJPLI have been engaged in advocacy and oversight of the Suffolk County Police Department's activities since the 2000s when there was a *Climate of Fear* for Latinx residents, the murder of Marcelo Lucero, and the beginnings of investigations by the U.S. Department of Justice. This work continued after signing of the Consent Agreement in 2014. As the SCPD is still not in full compliance with the agreement, UJPLI members continue to advocate for community residents. The Governor's Executive Order gives Suffolk County the opportunity to codify existing reforms from the Consent Agreement and to move further so that the SCPD is engaged in best practices with oversight by the legislature.

Advocates from both counties came together to discuss existing practices in the county legislatures and to craft this set of recommendations for both Nassau and Suffolk County.

Proposed Model

In a democracy, the legislative branch serves as a check and balance to the executive branch. As the policing agencies are under the purview of the executive branch, it only makes sense that the Public Safety Committees of the Legislatures are responsible for oversight of the policing agencies in each county. As such, we recommend that Nassau and Suffolk Counties' Public Safety Committee of the Legislature hold public hearings whereby the Police Commissioner is required to sit, provide data (as outlined below) publicly, and answer questions from the legislature and the public on a bi-annual basis. While the Suffolk

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[5] "Nassau County Stops, Field Interviews, Search and Seizure," Behind the Badge, NYCLU, https://www.behindthebadgeny.org/policy/1545/

[6] Robert E. Worden, Kenan M. Worden, Hannah Cochran, "Traffic Stops by Suffolk County Police," September 2020, https://suffolkpd.org/Portals/59/scpd_pdfs/tstop/2020TStopSummaryReport.pdf

County Public Safety Committee of the Legislature is doing this to the extent that the Settlement Agreement mandates, this proposal seeks to broaden that oversight to categories of data and activity not currently required by the Settlement Agreement. This oversight, if done according to the data requirements set out below, will force the collection of information not currently being collected or aggregated, require the public disclosure of currently hidden practices, and subsequently raise the level of trust between the police and communities. This proposal also recommends the publishing of all the data listed below in a written report to be presented to the respective legislatures and on the county and police websites.

List of Data to be Requested by
the Public Safety Committee of the Legislature
at Bi-Annual Public Hearings

- List of databases used to collect all data, with outline of what each database collects
- Use of Force Data collected as recommended in the STAT Act section
- Traffic/Pedestrian/Bicycle Stop Data collected as recommended in the STAT Act section
- SRO Data Collected as recommended in the STAT Act section
- Complaints Data Collected as recommended in the STAT Act section
- Surveillance Technologies Collected as recommended in the STAT Act section
- Language Access Collected as recommended in the STAT Act section
- Asset Forfeiture Collected as recommended in the STAT Act section
- Miscellaneous Collected as recommended in the STAT Act section

Public Safety Committee Oversight

The police cannot police themselves. Oversight should be done by the legislative branch.

The role of the Legislatures:

- Legislating standards for **police practices.**
- Demanding ongoing **data collection** and **reporting** on those practices.
- Requiring **reporting by the commissioners** of the respective departments on a regular basis at hearings.
- Ensuring **independent** and unbiased analysis of the data on police practices.
- Engaging in legislative inquiries where needed.

Recommendation: **Public Hearings**

The Public Safety Committee of the legislatures should hold ***bi-annual*** public hearings about policing.

Prior to the bi-annual public hearing:

a) Require the **publishing** of all the policing data on the police **department website.**

a) Require a **written report** analyzing the published data with particular attention to trends and to racial bias in outcomes.

At the bi-annual hearings:

a) Require the Police Commissioner to **provide data** (outlined below) & **analysis publicly** and answer questions from the legislature and the public.

i) List of databases used to collect all data, with outline of what each database collects

ii) Use of Force, Traffic / Pedestrian / Bicycle Stop, SRO, Complaints, Surveillance Technologies, Language Access, & Asset Forfeiture data, collected as recommended in the STAT Act section of The People's Plan.

Internal Affairs and Complaints

Executive Summary

Law enforcement and the community have agreed that public trust is crucial when it comes to policing. In order to build trust, there have to be mechanisms to reward and acknowledge positive actions on the part of police officers as well as investigate complaints from members of the public. Those investigations must enable the community to know that the police department takes complaints seriously and investigates fairly and promptly and, in the case of misconduct or crimes, implements appropriate discipline. The public also wants to acknowledge their thanks and admiration when an officer serves them with respect and professionalism. When all this is public knowledge, there will be more community support for the police department.

> "Mutual trust and respect are at the heart of effective policing and the overwhelming majority of our nation's law enforcement officers are principled men and women who provide professional services to the communities they serve with honor and distinction. The responsibilities they shoulder are great, and agency and public expectations are high. Unfortunately, on the rare occasion when an officer is accused of misconduct or criminal activity, he or she may be subject to an investigation. Implementing an honest and fair fact-finding process that uncovers the truth is the important role of the internal affairs function of a law enforcement agency, and it is essential to maintain a process that protects the rights of all involved, including the accused officer."[1]

It is common to speak of "transparency" and "accountability"; in practical terms, that is not possible without consistency, comprehension, and consequences: Consistent access to Consistent relevant data sets in a format that facilitates analysis and Comprehension, and Consequences for compliance and overall performance. Some of the most vexing challenges are cultural. Consequences have a significant role in culture. It is the certainty of accountability rather than its severity that compels responsible behavior. A balanced, 'carrot and stick', approach is key: favorable consequences are as important as adverse consequences. Police services represent a significant public investment and a compelling public interest. The public has a right to know that officers are recognized and rewarded when they meet and exceed performance standards - and that they receive proportionate training and punishment when their performance is inadequate or egregious.

Suffolk County: Problems

The DOJ settlement agreement mandated that SCPD implement sufficient data monitoring and management (analysis) mechanisms – particularly a computer database early warning system; the January 13, 2014 DOJ Settlement Agreement stipulated specific provisions for reporting

[1] Office of Community Oriented Policing Services, "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice," U.S. Department of Justice, Accessed February 11, 2021, https://cops.usdoj.gov/RIC/Publications/cops-p164-pub.pdf

"all allegations of officer misconduct related to discriminatory policing."[2]

However, public reporting should include the comprehensive range of criteria related to officer conduct enumerated in the 2011 Technical Assistance Letter sent to the county. Publicly disclosed complaint data should not be limited to the Bias Police cases that are investigated by IAB. In the aggregate, those complaints represent a mere 8% of the total complaints received by the Police Department and fewer than 17% of the cases retained by IAB between 2016 – 2019. IAB should investigate and report on all complaints without sending them to the precinct for investigation.

Year	Bias Cases	All Others
2016	8%	92%
2017	7%	93%
2018	10%	90%
2019	10%	90%

The department lists 20 categories of complaints in some years, 17 in others. And currently IAB investigates only complaints that explicitly accuse an officer of bias. For example, if a complaint is stating unprofessional language / attitude, the root cause may be bias but that is hard to prove and the complainant may not have indicated that on the complaint form. All categories of complaints need to be investigated in the same manner by IAB. Some complaints include allegations of serious offenses. In 2019, approximately 70 complaints alleged use of force; approximately 3 alleged Conduct Unbecoming (Sexual); the charts, curiously, do not provide absolute values.[3] The reports provide no definitions or glossary of terms to aid the reader in understanding the meanings of the categories and classifications. This needs to be remedied in the policy and annual reports.

Reporting Issues:

The annual reports are plagued with inconsistency and incomplete information. IAB reporting criteria and formatting change with disturbing frequency, without explanation.

– The 2017 IAB report provides the number of prior year(s) cases completed; that data is not provided in subsequent years. That is a material omission. In 2017, IAB reportedly completed a total of 345 cases - 47 (14%) of which were 'current year' cases and 298 (86%) of which were prior year(s) cases. 2017 was the last report that included prior year(s) cases completed in the reporting year. Subsequent reports have not reported that information and have not explained why it is no longer reported. The number of active prior year(s) cases reported in 2017 represented a statistically significant portion of the IAB caseload; there is reason to believe that they continue to be. The failure to report on the number of active prior year cases distorts the public's understanding of the Bureau's caseload and functioning. It smacks of an intentional effort to obscure relevant data, diminishing confidence in the Department's objectivity and the veracity of the report overall.

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[2] Goldberger, Michael E. and Jonathan M. Smith. Agreement with Steve Bellone. "Agreement between the United States Department of Justice and the Suffolk County Police Department." New York City, New York: US. District Attorney Office, Civil Division Eastern District of New York, January 2, 2014, https://www.justice.gov/sites/default/files/crt/legacy/2014/01/23/suffolk_agreement_1-13-14.pdf

[3] Office of the Police Commissioner, "2019 Internal Affairs Report," Suffolk County Police Department, 2020, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Internal%20Affairs%202019%20Report.pdf

- The IAB reports for 2016, 2017 and 2018 provide separate Complainant Demographics charts for prior years for comparison. Inexplicably, the IAB report for 2019 does not do so.

- The IAB reports for 2016, 2017 and 2018 provide the minimum, maximum and average number of days for case completion. Inexplicably, the IAB report for 2019 does not do so.

- As did prior years', the 2019 IAB report contained 19 Case Reviews, which ostensibly included the discrete allegations of each complaint. Unlike prior years' reports, the 2019 IAB report did not include any case synopses or dispositions precluding relevant comparative analysis.

- Department-generated reports indicate that the Department has been challenged to meet its audit commitments and make no mention of essential integrity tests or disciplinary outcomes. To the public's perception, essential accountability is far from assured.

- Rather than providing consistent comprehensive anonymized datasets over time, the IAB report, in particular, presents select data views, in the form of charts, alternately with and without discrete values, that are tailored to support a narrative and conclusion rather than facilitate objective assessment.

To inform the public's understanding and expectation of the timing of case management and, thereby, gain public trust and confidence, SCPD reporting should provide:

- Minimum, maximum and average days for case completion in the reporting period
- Basis of determination (inadequate corroboration – witness reluctance/refusal – etc.)
- Basis for determination of disposition – action taken, if any

There is a compelling public interest in having access to adequate sufficiently anonymized policing data to be able to assess baselines, patterns, trends and anomalies independently and objectively. Such access informs public perceptions, understanding, trust and confidence. In its absence, members of the community are informed largely by anecdote and prevailing passions that serve to stoke resentment and exacerbate stubborn animosities in a counterproductive cycle of mistrust.

The failure to disclose adequately anonymized data (data that contains no personally identifiable information) gives the impression that the Department does not want the public to know the full scope, scale and nature of complaint allegations. To the degree that all complaints are processed pursuant to standardized policy and protocols and the data is managed and maintained on a standardized digital platform, full disclosure should pose no marginal burden. Quarterly reports are already completed but the data is not available to the public. Disclosure is in the collective interest.

Dispositions of Complaints:

The reports presented by the department indicate the dispositions of complaints. See the chart on the following page demonstrating the results.

SCPD IAB Case Dispositions 2016 - 2019				
Year	Substantiated	Unsubstantiated	Exonerated	Unfounded
2016	22%	28%	50%	0%
2017	18%	32%	41%	9%
2018	6%	32%	43%	19%
2019	14%	27%	43%	16%

It is astounding that almost a third of the complaints are unsubstantiated. An example of the problem is that some individuals reported to advocates that they would not accept videos or interview certain witnesses and then determined the case unsubstantiated. Also, when it is a situation where the complainant and the officer are saying two different things, and they have no acceptable proof (according to the department) they list the deposition as unsubstantiated. That is another reason why body cameras may help. Only an average of 15% for the 4 years calculated were substantiated. Adding together the exonerated and unfounded indicates that more than half of the complaints are resolved in the officers' favor. This picture appears to be statistically impossible if the cases were investigated thoroughly. Of course, not every complaint is valid, but most people would not go through all the trouble to complain for no reason. This extremely low result explains why so many feel there is no reason to file a complaint because they will not conduct a fair investigation. It would be interesting to study how many cases were substantiated by the precinct and how many by the IAB unit themselves. There should also be a study answering the question how many of the unsubstantiated cases were investigated by the precinct and how many were investigated by the IAB. These results need to be further studied to understand the basis for these determinations. The significantly low substantiated and high number of unsubstantiated results explains the distrust and frustration about the department not taking the public's concerns seriously.

There is no explanation in the reports and in the letters to the complainant concerning how or why the investigation arrives at their conclusion or disposition. When the department communicates to the complainant, they do not explain what they did to investigate and why the complaints were unsubstantiated or unfounded. That lack of information leads to personal frustration and community distrust. Lack of confidence in the legitimacy of complaint investigations inhibits reporting and candor.

Certainty, rather than severity, of accountability compels responsible behavior. When officers are confident that allegations of misconduct will be thoroughly investigated and that consequences will be imposed for findings of misconduct, they guide themselves accordingly. Such certainty acts as a powerful disincentive. It mediates behavior, reinforcing a culture of professionalism and respect, minimizes complaints and builds public trust and confidence. Proportionality, and progressivity are keys to effective discipline. In one of the most highly compensated police departments in the country, the question of where the forfeiture of one or two days of accrued time fits in the balance of proportionality and progressivity and effective disincentive merits consideration and discussion. Under what circumstances does a consequence effectively change behavior?

In one case, a young Latino was allegedly beaten by an officer. The incident was reportedly witnessed by two vehicle passengers and other officers and recorded on video. The family reports that the failure of the Department to place the officer on restricted duty during the pendency of the investigation and the failure to communicate with the family or community compelled them to file a civil action against the Department and to go to ask the FBI to investigate the matter.

Civil and criminal actions against the Department and its members are compelling public interests. The Department should be obligated to report, not less than semi-annually, on the number of civil and criminal cases opened and / or active against it and or its members as well as the dispositions, awards and sentences of any such cases adjudicated during the reporting period. The Department is operating at a significant deficit as regards public confidence in its ability and willingness to conduct, timely, fair and just investigations of its members. Any meaningful reform effort will prioritize this developmental opportunity.

It is also noted that when there is a complaint against an officer, that officer has the benefit of union representation. But who represents the interest of the complainant? A third party is not allowed to ask questions or intervene and with the large number of exonerated and unfounded results, the complainant and therefore the community in which they are a part, concludes that there is no recourse for them when there is a conflict or a complaint against a police officer. This results in either lawsuits against the SCPD or resignation with dissatisfaction. Neither of these choices is in the best interest of the department or the community.

Complaint Investigation Process:

Pursuant to Department policy, allegations of bias are investigated by IAB. Although initially reviewed by IAB, civilian complaints about member conduct that do not explicitly allege "bias" or "discriminatory" policing are reportedly delegated to the precinct/command of the subject member for investigation. This practice is cause for considerable concern and raises the following questions:

- What qualified, adequately trained and resourced and available non-sworn member(s) perform such investigations and how are their investigatory materials safeguarded?
- Are the investigations delegated to represented members within the precinct?
- Given the working relationship of the 'investigator(s)' and the subject dictated by proximity, how are investigative objectivity and integrity assured?

IAB is staffed by trained represented and non-represented investigators who work at a comfortable remove from those they investigate, pursuant to a standardized set of investigatory protocols, facilitating investigatory objectivity and simultaneously mitigating the potential encroachment of collegial influences. If the civilian complaint caseload exhausts the capacity of IAB, that should be explained to the public. Reserving investigation of civilian complaints to IAB is essential to gaining essential public trust and confidence. The notion that precinct personnel get to grade their own papers is disquieting. The problem is clearly seen in the 2019 report.

> "The Department received 218 complaints in 2019, containing an aggregate of 518 separate allegations of misconduct.5 (Chart 2019-1) According to policy, the Internal Affairs Bureau retained 113 cases for investigation, and delegated 105 to subordinate commands.6 Of the 113 cases investigated by Internal Affairs, 46 have been completed."[4]

A relatively similar number of Hate Crimes and Hate Incidents were investigated by approximately one third the number of staff assigned to IAB." A total of 352 incidents were reviewed by the HCU in 2019. Seventy-three (73) of those were investigated as cases" Hate Crimes Report 2019 The limited information that was provided in the 2019 IAB report raises serious questions about the portion of the productive capacity of the staff of 15 that might gone unused. The number of unsubstantiated results is also noted.

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[4] Office of the Police Commissioner, "2019 Internal Affairs Report," Suffolk County Police Department, 2020, https://www.suffolkcountyny.gov/Portals/0/formsdocs/police%20reform/SCPD%20Internal%20Affairs%202019%20Report.pdf

This seems to indicate that IAB investigated little more than half of the complaints it received. The report does not specify which cases went back to the precinct and which were investigated by IAB raising more questions than it answers. Explication and comparison of the duration, communication with the complainants, and disposition of cases investigated by IAB vs. those investigated at the precinct level is essential to informing public understanding.

In addition, the protocol for precinct-level civilian complaint investigations has not been publicly disclosed leaving a perception of a lack of adequate investigatory guidance and consistency between precincts deepening public mistrust. The Department's ability to maintain that essential 'carrot and stick' balance and promote essential positive cultural change seems imperiled by the delegation of such an essential and specialized function to questionably trained and resourced colleagues.

The DOJ indicated that civilian complaint investigation information should be retained within IAB with exceptions based on the need-to-know. Discontinuing the practice of precinct-level investigation of civilian complaints is essential to restoring public confidence and trust.

The 2011 DOJ Technical Assistance Letter recommended that complaints be resolved within 45 days and previous to this letter the SCPD policy required completion of investigation and disposition within 60 days. The DOJ Settlement Agreement allowed for complaints to be resolved within 180 days with a letter to the complainant. Regrettably, this protocol is not always followed. A 2018 verified complaint was concluded with a December 2020 letter to the complainant advising that the matter was closed with a finding that it was unsubstantiated with no further explanation. The investigations should be more timely with constant communications with the complainant. The department needs to monitor the timeliness of investigations.

Nassau County: Problems

Aside from the obvious problem associated with allowing an agency to investigate itself, the Nassau County Police Department's track record on transparency is problematic at best. Its data tracking is still not centralized, and is spread across four different platforms, both old and new, resulting in an ongoing inability to respond to foil requests. In a report published in 2018 by the New York Civil Liberties Union (NYCLU), Behind the Badge, the department was unable to provide any data on stops, enforcement of low-level offenses, or statistics related to officer training, stating, "Retrieving such data and generating reports responsive to the request would require NCPD to create a new data retrieval program."[5] While they are currently in the process of centralizing databases, they are still not able to respond effectively, as evidenced by ongoing foil requests by communities in Nassau County. This creates a veil of secrecy around all policing operations, which, in turn, creates distrust in the community. This lack of accountability and transparency is also evidenced in a lack of reporting of complaints and misconduct statistics. Prior to the recent release of complaint data by the department, for 2016 – 2020, the most recently found data could only be found again, in NYCLU's 2018 Behind the Badge Report, which indicated that between January 2012 and May 2015, the NCPD reported 1,605 complaints resulting in 2,601 allegations. The most common allegations were unprofessional conduct (42%), Improper Tactics/Procedures (31%) and Excessive Force (8%). Of the completed investigations, 51% were determined to be unfounded or resulted in exoneration, 39% were undetermined, and 7% were founded.[6] The 2016-2020 data, which was released only as a result of recent events, shows the

[5] "Nassau County Stops, Field Interviews, Search and Seizure," Behind the Badge, NYCLU, accessed February 17, 2021 https://www.behindthebadgeny.org/policy/1545/

[6] "Nassau County – Police Misconduct" Behind the Badge, NYCLU, accessed February 11, 2021, https://www.behindthebadgeny.org/policy/1547/

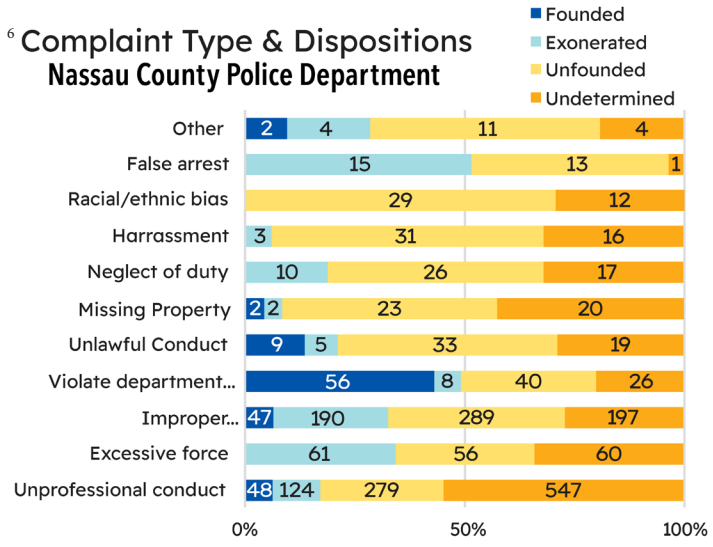
following:

Year	Total Allegations	Founded	Percentage Founded
2016	699	62	8.9%
2017	621	75	12.1%
2018	687	88	12.8%
2019	684	95	13.9%
2020	372	12	3.2%
Totals	3,063	332	10.8%

The data provides race and gender of complainants by number of complainants without mention of population statistics. So for example, in 2019, there were 63 complaints by members of the black community and 85 by members of the white community. However, 73% of the population is white and 13% of the population is black in Nassau County. Yet the percentages are not shared. Further, we can note that the only category of complaint outcome that is shared is "Founded." Creating further secrecy and partial reporting.

Further, advocates report anecdotally that the public does not trust the system and either are not able to obtain complaints at the precinct level in-person, or, when a complaint is submitted, they do not hear back—at all.

According to the Police Commissioner's proposed police reforms, complainants will be able to upload videos in addition to their complaint forms.



Proposal:

Remove investigations from the police department and create an independent oversight board such as a Civilian Complaint Review Board with investigative, subpoena and disciplinary power.

Components of Proposal

As a Civilian Complaint Review Board with investigative, subpoena and disciplinary power is phased-in, existing problems within the complaint process must be addressed in the following steps:

Complaint process:

- All civilian complaint investigations should be retained by the internal affairs unit and not delegated to the precincts / commands.
- Communication with complainants should include explanation of disposition and steps taken during the investigation.
- Complaint investigations should be completed within 180 days of intake, including Commissioner review.
- Allegations / complaints should be accepted by complainants and third parties on their behalf, whether in person, by telephone, complaint form, personal letter, website, email, fax, or TDD.
- Establish a mechanism for monitoring and ensuring the appropriate timetable for actions and communications with complainants.
- All complaints should be immediately shared digitally with the public safety committee of the legislature, an inspector general's office, and the County Executive's office, who should all develop their own tracking mechanisms and communications with an investigative entity, including communications with the complainant.
- When there is a complaint against an officer, that officer has the benefit of union representation. But who represents the interest of the complainant? A third party is not allowed to ask questions or intervene and with the large number of exonerated and unfounded results, the complainant and therefore the community in which they are a part, concludes that there is no recourse for them when there is a conflict or a complaint against a police officer. This results in either lawsuits against the police department or resignation with dissatisfaction. Neither of these choices is in the best interest of the department or the community.

Reporting, transparency, and oversight:

- Create detailed quarterly reports on the website including nature of accusation, cc number, location by latitude/longitude, precinct, date and time of occurrence, demographics (race/ethnicity, age gender, sexual orientation, disability) of complainant and officer, command of subject officer(s), date of complaint, dates of any correspondence, by mail, letter, phone, or email etc. dates of meetings with officer, final disposition of case and why and date, number of days of the investigation, number of complaints by category and precinct.

- Annual reports should indicate the number of cases carried over from prior year(s); the number of cases received in the reporting period; the maximum, average and minimum number of days to complete open cases in the period; the number of prior year(s) cases closed; the number of current year cases closed; the number of open cases remaining; an explication of closed case dispositions; and year to year variance analysis. Charts and graphs should specify discrete absolute values. Percentage values should be accompanied by underlying absolute values.

- NCPD/SCPD reporting should provide:

    - Minimum, maximum and average days for case completion in the reporting period
    - Basis of determination (inadequate corroboration – witness reluctance/refusal – etc.)
    - Basis for determination of disposition – action taken, if any
    - Create mechanisms and benchmarks for communication with the complainant including mandatory status communication every 30 days if the process extends past 30 days

- Reported data should include a break-out of investigations conducted at the precinct level vs. by Internal Affairs, and advocates recommend that there be a moratorium on investigations conducted at the precinct level moving forward. The proximity of colleagues corrupts any pretense of objectivity.

- Reports on all categories of complaints and outcomes, including demographic breakdowns, should be presented to the public, twice annually, publicly reported to the Public Safety Committee of the Legislature in a public hearing allowing for public comment and questions, and to an inspector general's office, and presented on the county website including population statistics. All reports should be accompanied by a glossary containing definitions of terms. All reports should be published on the department's website.

- Promulgate written policy establishing criteria and protocols for the disposition categories of Substantiated, Unsubstantiated, Exonerated and Unfounded. Definitions should be enumerated in a Glossary of Terms that should accompany all reports.

- Mandate the semi-annual publication and submission of a comprehensive report, including relevant analysis, findings, and summary actions, from the Police Commissioner to the Public Safety Committee of the Legislature. Report to be simultaneously posted to the Department's website.

- Following the submission of the semi-annual civilian complaint / internal discipline report, the Public Safety Committee of the Legislature should conduct a hearing at which the public is afforded the opportunity to ask questions and provide input.

- Civil and criminal actions against the Department and its members are compelling public interests. The Department should be obligated to report, not less than semi-annually, on the number of civil and criminal cases opened and / or active against it and or its members as well as the dispositions, awards and sentences of any such cases adjudicated during the reporting period. The Department is operating at a significant deficit as regards public confidence in its ability and willingness to conduct, timely, fair and just investigations of its members. Any meaningful reform effort will prioritize this developmental opportunity.

Accountability:

- Disclose training and resources of sworn and non-sworn members who conduct investigations, as well as procedures for safeguarding investigatory materials, with disclosure and examination of logs, evidence and materials associated with investigations shared with the public safety committee of the legislature, and an oversight board.

- Monitor investigator compliance with policies, procedures, training and complaint classification protocols; and performance (thoroughness of investigations, communication with complainants and witnesses, support for officers)

- Leverage an early warning system to aggregate and assess / analyze all performance / enforcement activity for every member for potential bias (discriminatory actions).

- Mandate that the Department maintain an early warning system if not already existing, with the features and functions:

- Track data on use of force, citizen complaints, internal investigations, service calls, discipline, and other items relevant to each officer's conduct.

- Gather and track data for each officer's arrests by race or ethnicity of the subject.

- Use this data regularly and proactively to:

    - promote best professional police practices
    - improve accountability and management
    - manage the risk of police misconduct and potential liability
    - evaluate and audit the performance of officers and units
    - evaluate and assess the effectiveness of training and policy; and
    - recognize and commend positive officer performance.

- Develop and publish penalty guidelines (a discipline matrix), such as that published by NYPD in January 2021, which outlines presumptive penalties for violations of Departmental procedures and for misconduct involving members of the public.[7] This level of transparency related to accountability will restore essential public trust and confidence.

- Provide public access to adequate sufficiently anonymized policing data to be able to assess baselines, patterns, trends and anomalies independently and objectively. The failure to disclose adequately anonymized data (data that contains no personally identifiable information) gives the impression that the Department does not want the public to know the full scope, scale and nature of complaint allegations. To the degree that all complaints are processed pursuant to standardized policy and protocols and the data is managed and maintained on a standardized digital platform, full disclosure should pose no marginal burden. Disclosure is in the collective interest.

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[7] NYPD "New York City Police Department Disciplinary System Penalty Guidelines," The City of New York, accessed February 17, 202, https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-discipline-matrix-effective-01-15-2021-final.pdf

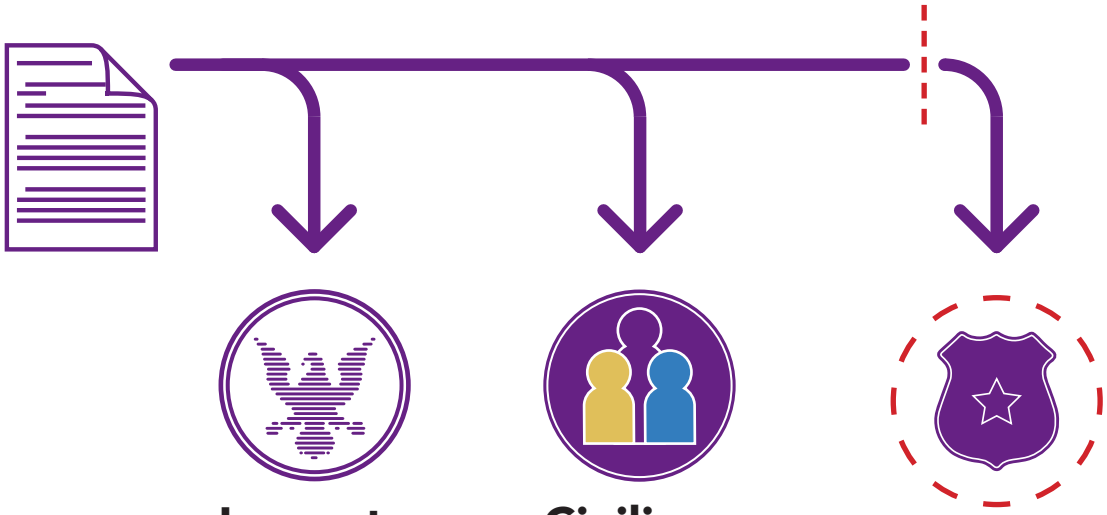
- Provide for continuous professional development for the Internal Affairs unit members to ensure best practices

- Provide support for officer wellness when necessary.

Internal Affairs / Complaints

Police do not do a good job of policing themselves. Access to the complaint process can be denied. Complaints are routed out of internal affairs units and back to local precincts where they are too often resolved in officers' favor. There is no oversight by legislators or civilians. The public is kept in the dark while counties pay out enormous sums in settling police brutality cases. The public is paying for that.

Remove complaints & investigations from the police department and create a **C.C.R.B.** and an **Inspector General's office.**



If investigations remain within the police department,

- Remove investigation authority at the precinct level.
- Share **all complaints** with the Public Safety Committee of the Legislature as they arrive.
- Share **all communications with complainants** with the Public Safety Committee of the Legislature as they are transmitted
- Public Safety Committee of the Legislature should establish a **process and tracking system** to monitor the complaint and investigation process.
- Police Department must **report publicly* all data** on complaints including outcomes for every category of complaint & outcome with their respective demographics and population percentages.
- Notify complainants of progress and authority overseeing investigation **every 30 days.**
- Complete all investigations, with resolution, within **180 days.**
- *In Nassau*—Provide access to Blue Team Tracking System to all oversight entities: CCRB, Inspector General's office, Public Safety Committee of the Legislature, and County Executive's office.

*on the website & to the Public Safety Committees of the Leg. in a public hearing

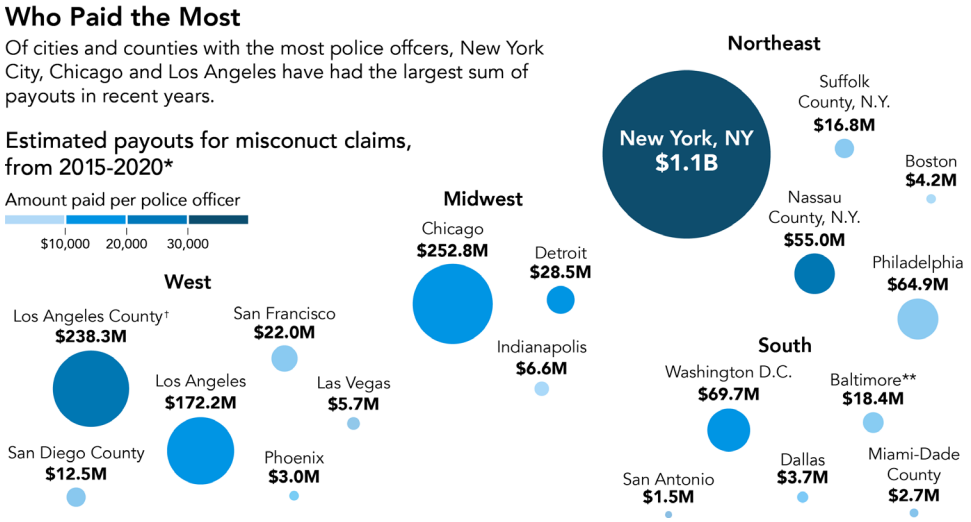
Liability Insurance

Section Summary

Rather than municipalities paying millions of taxpayer dollars each year to settle misconduct cases perpetrated by police officers, implementing mandatory personal liability insurance as a requirement for employment would hold police officers accountable and liable for their actions in the field. Requiring officers to help pay for their own insurance will force officers with histories that indicate dangerous or violent behavior, to either adopt safer practices and methods of policing, or leave the profession altogether.

Problem:

In almost 20 years of policing Derek Chauvin, the officer who killed George Floyd, had 18 complaints filed against him. Only two of those complaints resulted in discipline. Before he became a police officer he worked as a security guard. As a security guard, he had a reputation for being "quick to get aggressive" as described by his former employer.[1] None of this was seen as problematic and did not serve as an early warning concerning his fitness to serve, until the day he killed George Floyd. This situation is all too common in policing. Current methods of disciplinary action are not effective because they do not hold officers accountable, do not trigger the need for additional training, or provide consequences that might lead to behavior changes. Officers are not appropriately disciplined, are allowed to continue working on the streets, all while large cities pay millions of dollars in taxpayer money each year to settle misconduct lawsuits. Between 2015 and 2020, Suffolk County paid $16.8 million dollars to settle misconduct claims. Nassau County paid $55 million and New York City paid $1.1 billion.[2] And because the consequence of paying for misconduct settlements falls to self-insured municipalities, there is no direct impact to the police officer, leaving them to serve with impunity, and allowing them to minimize the dire outcomes on public trust and individual harm.



[1] Matt McKinney, Stephen Montemayor, Jennifer Bjorhus, "Even to Friends, Former Officer Derek Chauvin was an Enigma." *Star Tribune*, August 8, 2020.

[2] Calvert, Scott and Frosch, Dan. "Police Rethink Policies as Cities Pay Millions to Settle Misconduct Claims." *Wall Street Journal*, October 22, 2020.

Proposal:

Mandate personal liability insurance and make it a contingency of employment.

Proposed Model:

- The cost of the average premium for coverage would be covered by the municipality.

  An average premium would be calculated for all officers in a particular department by independent insurance agencies keeping in mind impacting factors (ex. for past / present departmental performance, criminal activity within the area of the insured etc.)

- Individual officer's premiums would be calculated considering their policing history. Officers with histories in policing that create a higher premium would be responsible for paying the difference between their premium and their department average. Officers with histories that create lower premium than the department average can receive the difference as additional take-home pay.

  Incidences leading to higher premiums include: settlements of any kind against an officer; formal misconduct complaints whether they resulted in disciplinary action or not; misdemeanors, charges, and felonies relating to violence or misconduct of any kind (assault, battery, domestic abuse etc.)

- Total transparency concerning an officer's and/or police department's history and performance must be a term of condition when applying for insurance.

  If an officer fails to provide an insurance company complete and accurate information about their policing history, intentionally or not, (i.e., formal complaints leading to disciplinary action or not, criminal conviction, and/or general data) it would result in either the loss or reduction of coverage. Loss of coverage would result in termination

  If a department fails to provide an insurance company complete and accurate data about their performance as a whole, it would result in the loss or reduction of coverage for the department.

- Insurance companies can offer reduced premiums to officers that attend appropriate risk management, de-escalation trainings and programs.

Key Considerations

Base rate coverage may vary between individual departments in either country.

Liability Insurance

Implement mandatory police officer **personal liability insurance**.

Goals:

* Hold police officers accountable.
* Force officers with ***histories*** that indicate dangerous or violent behavior, to either adopt safer practices and methods of policing, or leave the profession.

Current disciplinary actions are not effective because they **do not hold officers accountable**.

^ Rather than municipalities paying ***millions*** of taxpayer dollars each year to settle misconduct cases perpetrated by police officers.

- Officers with ***histories**** in policing that create a higher premium would be responsible for **paying the difference** between their premium & their department average.

- The cost of the **average premium** for coverage would be covered by the municipality.
- **Total transparency** concerning an officer's and or police department's history and performance **must be a term of condition** when applying for insurance.

- Insurance companies can offer **reduced premiums** to officers who attend appropriate risk management, de-escalation trainings and programs.

- Individual officer's premiums would be calculated considering their policing ***history***.
- Incidences leading to higher premiums include: settlements of any kind against an officer; formal misconduct complaints whether they resulted in disciplinary action or not; misdemeanors, charges, and felonies relating to violence or misconduct of any kind (assault, battery, domestic abuse etc.)
- Officers with histories that create a lower premium than the department average can receive the difference as additional take-home pay.

Community Survey

Executive Summary

The ability of a police department to protect the community it serves is promoted through strong relationships with the community. Community engagement, and evaluation of that engagement through community surveys, is a core element of building and maintaining these strong relationships. These community surveys must measure how satisfied people are with how they are treated by police and how police handled their problem; civilian judgments about procedural justice; and people's experience with language assistance. Neither Nassau or Suffolk counties have yet completed community surveys that fulfill these goals. While Suffolk County has a survey in process, Nassau County has not begun to develop surveys.

Section Summary: Suffolk County

In 2009, The U.S. Department of Justice Civil Rights Division and the U.S. Attorney's Office for the Eastern District of New York (collectively "United States") initiated a joint investigation of the Suffolk County Police Department ("SCPD or "Department"). On September 13, 2011, the Unite States issued a Technical Assistance Letter which provided preliminary observations, advice and recommendations. In 2014 Suffolk County, the SCPD, the SCPD Police Commissioner, and the U.S. Department of Justice entered into a consent agreement in which all parties agreed that the ability of a police department to protect the community it serves is promoted through strong relationships with the community. Community engagement, and evaluation of that engagement through community surveys, is a core element of the agreement. Yet there have been repeated failures to make the Community Survey a priority (see Timeline below). In 2020 the county hired the Finn Institute to draft, distribute, and analyze community surveys.

According to the Agreement, the survey was supposed to be developed with the community and then given to a professional group to finalize. Instead, in September 2020, the SCPD presented only one of two surveys to community advocates and asked for an opinion in a one-hour setting. Once seen, there were recommendations for improvement in almost all items. These were allegedly given to Finn Institute, but advocates do not know if they incorporated the suggestions. Instead Finn's goal seemed to be to design questions that allowed comparison with other communities rather than designing questions specific to the history of SCPD relations with the Latinx community. In addition, there were many concerns about the Spanish translations.

The SCPD needs to make the community survey a priority, provide adequate funding to retain an independent local university like SBU to produce, administer, and analyze the survey, ensure that the raw survey data are available to the public, expand the target population to include members of both Black and Latinx communities, and ensure that the survey is administered to youth and to community members who have experienced an arrest by the SCPD.

Timeline of SCPD's Failure to prioritize the Community Survey for 7 years

- **09/03/2011** DOJ Technical Assistance Letter is sent to SCPD. **2007- 2011** SCPD surveyed residents by Internet, mail, and phone and compiled the results. However, the numbers were not divided by ethnicity. DOJ recommends the department take steps to ensure that surveys correctly reflect its relationship with the Latino community.

- **01/13/2014** ***Agreement Between the USDOJ & SCPD*** is signed. Within 90 days, SCPD was to develop a survey to assess CRB's success in engaging the Latino community.

- **01/14/2015** ***SCPD Compliance Report*** shows the surveys (31 questions including demographics) and explains how the department plans to distribute the surveys by officers, in precincts, libraries, and through community leaders. SCPD Research and Development was tasked with maintaining and gathering data, while the Community Response Bureau was tasked with analyzing. Between 10/14- 11/14, 1,000+ surveys were collected. Comments included suggestions that officers receive more sensitivity training, adjust their attitudes, and raised issues of racial profiling and stereotyping.

- **12/14/2015** ***DOJ Assessment*** on SCPD's compliance states that there is substantial room for improvement, both in substance and process. DOJ recommends SCPD explore other survey tools that have been evaluated by researchers.

- **07/15/2016** ***SCPD Compliance Report*** states the Department was seeking assistance from researchers at Stony Brook University in developing a new survey and new distribution and analysis plan. Prior surveys were not getting useful information from the target audience, and the content of questions were problematic. A draft revision of the survey was produced. The Department expressed hopes of contracting with SBU.

- **03/01/2017** ***SCPD Compliance Report*** states that although Stony Brook University was well qualified, they ultimately were cost prohibitive. A local college that has a strong criminal justice program and a research institute were under consideration. Analysis of the data to date continued to not produce meaningful insight because the method of distribution skewed results. To remedy this the department planned to launch a new online survey and print cards that would be distributed to the public with directions on accessing the online survey. The plan was projected to launch in 2018.

- **06/23/2017** ***The DOJ Assessment*** of SCPD's progress with the development of a community survey states that efforts had stalled to a halt. They recommend that SCPD make it a priority as it is an important means of measuring the effectiveness and impact of its community outreach and engagement.

- **03/30/2018** The ***SCPD Compliance Report*** states SCPD met with local colleges, at least 2 expressed interest in submitting bid, hopes to commence distribution by fall 2018.

- **03/13/2018** In the ***DOJ Assessment*** of SCPD's progress DOJ urged that the project has been underway for a substantial time, and needs to be completed ASAP.

- **12/18/2019** In the ***DOJ Assessment*** of SCPD's progress DOJ acknowledges the survey is under development and should be rolled out sometime in 2020.

- **July 2020** The SCPD informs advocates that the FINN Institute is contracted to create and distribute the survey and analyze the data. The Commissioner met with advocates to receive feedback.[1]

Finn Institute Community Survey Overview

The Finn Institute produced two survey instruments a "Contact Survey" and "Resident Survey".

Contact Survey will sample from victims and complainants who had contact with the SCPD in the month prior to being surveyed. There will be an oversampling from the precincts with disproportionately larger Black and Latino populations. The survey is designed to measure how satisfied people were with how they were treated by police and how police handled their problem; judgments about procedural justice; and language assistance.

Resident Survey. Two sampling strategies will be used for the resident survey: random digit dialing of residents ages 18 or older and targeted oversampling of Latino and Black residents 18 or older. People who are contacted but decline to participate by phone will be provided a link to a web-based resident survey. The resident surveys is designed to measure fear of crime and safety, satisfaction with their neighborhood as a place to live, perceptions of neighborhood disorders, and the degree to which SCPD is responsive to community concerns.

Both surveys will measure police legitimacy, perceptions of bias-based policing, perceptions about the thoroughness with which SCPD investigates complaints about its officers and the severity with which officers are sanctioned when complaints are substantiated, and demographics of respondents.

Responses from the two surveys will be analyzed separately.

The FINN Institute will prepare a written report summarizing the findings and interpretations 2021.

Section Summary: Nassau County

In 2018, the Nassau County Police Commissioner designated Commissioner's community councils designated by legislative districts and started working with community leaders from those districts on community relations and outreach. Yet, Nassau county still ranks amongst the highest in the country on lawsuits brought against the department for police misconduct. This leaves communities to wonder if these councils are a mere public relations campaign. As part of Police accountability, the department must conduct community surveys to measure how satisfied people are with how they are treated by police and how police handled their problem; judgments about procedural justice; and language assistance. The surveys should address both people who have had contact with the police in the month prior to the survey, and residents, separately as outlined by the Finn Institute's interaction with Suffolk

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[1] Suffolk County Police Department, "Information/Department Policies," Suffolk County, http://suffolkp.org, accessed January 31, 2021, https://suffolkpd.org/InformationandPolicies.aspx

county, and as outlined below.

Contact Survey will sample from victims and complainants who had contact with the NCPD in the month prior to being surveyed. There will be an oversampling from the precincts with disproportionately larger Black and Latino populations. The survey should be designed to measure how satisfied people are with how they are treated by police and how police handled their problem; judgments about procedural justice; and language assistance.

Resident Survey. Two sampling strategies will be used for the resident survey: random digit dialing of residents ages 18 or older and targeted oversampling of Latino and Black residents 18 or older. People who are contacted but decline to participate by phone will be provided a link to a web-based resident survey. The resident surveys is designed to measure fear of crime and safety, satisfaction with their neighborhood as a place to live, perceptions of neighborhood disorders, and the degree to which NCPD is responsive to community concerns.

Both surveys will measure police legitimacy, perceptions of bias-based policing, perceptions about the thoroughness with which NCPD investigates complaints about its officers and the severity with which officers are sanctioned when complaints are substantiated, and demographics of respondents.

The survey should not be used, or include questions that allow for the police to gather data on hot-spot, or problem-oriented policing. The Crime Science philosophy behind problem-oriented policing requires data-driven problem solving, which the NCPD gathers through its expanded presence in communities, fostering 'relationships' with residents, making them complicit in their own surveillance. The survey should be primarily designed to measure how the community feels about how they are treated by the police.

Responses from the two surveys will be analyzed separately, with results sent to an oversight board/ inspector general (as recommended in the People's Plan), the public safety committee of the legislature, and posted on the website.

Proposal:

Prioritize community surveys ensuring that all relevant communities are surveyed on a regular basis and that an impartial local institution of higher education be hired to develop, administer, and analyze the survey.

Necessary components to implement the proposals:

1. Police Department must prioritize the Community Survey in the budget

2. Police Department should work with a local county based, research-oriented university to produce and administer the community survey, and analyze the data

3. Allow for open-ended questions in the survey

4. Ensure that residents under the age of 18 who have had contact with the police department through an arrest or through interaction with law enforcement in a school are included in the survey sample

5. Ensure that people who are arrested are included in the survey samples

6. Include Black / African American and LatinX communities as a target populations

7. Ensure the survey vender or police department release the raw data from survey results

8. Ensure that survey in-process (for example, Finn Institute) be completed, analyzed and reported on the police department website

Community Survey

Community surveys are an important part of building good police-community relationships. The Nassau County Police Department has not committed to surveys of the community. The Suffolk County Police Department committed to these surveys as part of the 2014 Consent Agreement with the U.S. Department of Justice, yet there have been extended delays in developing and distributing the survey.

SCPD & NCPD **must conduct community surveys** on a regular basis.

Prioritize the **Community Survey** in police dept. budgets.

Implementation:

- Hire a **local institution** of higher education to produce and administer the community survey and analyze the data.
- Include <u>**open-ended questions**</u> in the survey.
- Include residents ***under the age of 18*** who have had contact with the police department through an arrest or through contact at school in the survey sample.
- Include **Black and Latinx communities** as target populations.
- Include people who have **been arrested** in the survey samples.

- Ensure the survey vender or police department release all the ***raw data*** from survey results.
- Ensure that community surveys continue to be done, as recommended here, on an ***annual*** basis.

Surveys must:

- Measure **how satisfied** people are with how they are treated by police;
- How police handled their problem;
- Judgments about **procedural justice;**
- Measure language assistance effectiveness.

Use of Force

The Proposal:

Adopt best practices, language and training to bring Use of Force policies in line with nationally proven standards, shown to quickly and drastically reduce force used against the people the police are meant to protect.

Section Summary

Police Departments represent the awesome power of the state and posses the power to take life. Although the murder of George Floyd raised awareness of the epidemic of police violence, it is not a new phenomenon. The lack of oversight, transparency and accountability further contributes to an overall impression that the police operate with impunity.

While there is not one overall cure or police reform measure that will begin to mitigate harm and reign in policing power, correcting Use of Force policies and practices has been proven to be an effective means to lower incidences that threaten human life. According to the Use of Force project,[1] police departments who have corrected their policies to include a Use of Force continuum, have seen a 19% drop in police killings per capita.Cities that implemented policies requiring officers to exhaust all other means before shootings, have seen a drop in killings by 25% per capita.[1] Since June of 2020, this has been implemented in cities including Tampa, San Antonio, Houston, Charlotte, Las Vegas, Los Angeles and more. Cities in the tri-state area have installed this policy including Newark, Jersey City, and Buffalo.[2] Research shows these policies to be effective in restricting the Use of Force and saving lives.

The problem of use of force does not only include lethal police violence. Indeed, lethal police violence follows minor stops and detentions of civilians. Particularly in police departments that lack adequate use of force policies, do not prioritize de-escalation, and do not offer sufficient de-escalation training, minor detentions can become violent. While the most egregious incidents dominate news coverage, personal accounts and a large and growing body of public health research indicate that it is the cumulative effect of less flagrant, more frequent and unreported incidents of improper use of force that cause the most significant and enduring societal harms. Police-involved deaths, such as those of George Floyd, Breonna Taylor, Michael Brown, Tamir Rice, Eric Garner and Amadou Diallo, grab headlines and attention, but it is the resultant persistent hypervigilance and the abiding store of resentment accumulated from countless uncounted **"minor"** stops and interactions that fuel the sustained social conflagrations ignited by the major events and contribute to profoundly adverse public health outcomes.

The harms of these types of use of force incidents, often ignored by media, have been described as follows:

> ***"Although much of the evidence concerns the disproportionate burden police action imposes on African American males who are young and poor, there is substantial evidence that the experience of being stopped by police is also common both for older African Americans and for those who are professionals — lawyers, doctors, businessmen, and academics ... . These Encounters are humiliating, damaging to the detainee's self-esteem,***

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[1] Campaign Zero "Police Use of Force Project," accessed February 17, 2021, http://useofforceproject.org/#analysis
[2] Campaign Zero "Compare Cities," #8CantWait, https://8cantwait.org/compare/

and reinforce the reality that racism and intolerance are for many African-Americans a regular part of their daily lives." – Washington v. Lambert... (9th Cir. 1996)

A Recently these very types of police actions were condemned by a federal court in the Southern District of New York.

No one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life... . Targeting young black and Hispanic men for stops based on the alleged criminal conduct of other young black and Hispanic men violates the bedrock principles of equality. - Floyd, et al. v. City of New York... . (Southern District of NY 2013)

The question of whether such stops constitute the use of force was put to rest by the Supreme Court of the United States in its 1964 landmark ruling in the matter of Terry v. Ohio, which held:

"... the Fourth Amendment governs **"seizures"** ***of the person which do not eventuate in a trip to the station house and prosecution for crime – "arrests" in traditional terminology. It must be recognized that, whenever a police officer accosts an individual and restrains his freedom to walk away, he has*** **"seized"** ***that person..."***

Governor Andrew Cuomo's Executive Order 203: ***New York State Police Reform and Reinvention Collaborative*** candidly acknowledges that a long history of discrimination and racially-biased law enforcement has resulted in an enduring widespread lack of essential public confidence and trust in our system of law enforcement and criminal justice; that this condition has compromised social stability; and that urgent reform is needed to eliminate racial inequities in policing and ensure that all citizens are treated equally, fairly and justly before the law.

The need is clear. The state retains a monopoly on the authority to use force against others. That authority is delegated, conditionally, to law enforcement and others by statute. Both Suffolk and Nassau County need to enact explicit use of force policies that clearly define police use of force and expressly stipulate that the deprivation of an individual's liberty to continue on their way during a police inquiry, whether by verbal instruction or physical restraint - no matter how brief the encounter, and whether subjecting an individual to a cursory pat down for weapons or not constitutes an exercise of state delegated use of force authority. It is noted that a civilian who so detains another civilian is subject to criminal penalty pursuant to New York State Penal Law § 135.05 **Unlawful imprisonment in the second degree**. Law enforcement authorization to stop, question, temporarily detain and perform warrantless pat downs of civilians should be conditioned upon the timely recording and reporting of each exercise of such delegated authority. This isn't complicated. If the predicate and resultant interaction do not merit timely recording and reporting, threshold justification for a Fourth Amendment seizure has certainly not been met and the subject should not be detained in the first instance. More directly, the exercise of state delegated authority to use force to perform a Fourth Amendment seizure of a person must be conditioned upon contemporaneous recording and timely reporting of each instance.

Both counties must enact clear use of force guidelines as described in the recommendations below. Both counties must pass legislation requiring the police department to collect and publish data quarterly on the use of force in any police/civilian encounter and to have the data analyzed bi-annually. In addition, both counties must enact requirements for bi-annual reporting, to the Public Safety Committee of the county legislature, of the analysis and planned changes to policing practices and policies, if needed, in order to minimize the frequency and amount of force used in all police/civilian encounters. Specific recommendations regarding data collection and Public Safety Committee oversight are contained in other sections of this People's Plan.

The death of George Floyd is an instructive relevant case study. Post facto we learn that the offending officer, Dereck Chauvin, had a long and disturbing history of complaints of excessive use of force and racial animus. Had every encounter in which Chauvin performed stops of civilians been contemporaneously recorded and timely reported, patterns of his biased predilections and escalating

misconduct would have emerged and facilitated timely intervention and interdiction before profoundly damaging behaviors manifest. That opportunity was lost. George Floyd was murdered, limiting the municipality and the Floyd family to costly, adversarial, post-harm remedies that are incapable of making the Floyd family whole. It is the certainty of accountability rather than its severity that compels responsible behavior. Transparency in every instance of the exercise of state-delegated authority to use force portends accountability and serves as a powerful disincentive for those otherwise inclined to indulge biased predilections and engage in misconduct, thereby obviating the need for post-harm remedies.

The Problem

The public health implications of regular use of force are disturbing, particularly in terms of racial disparities. Racism has a profound impact on the health of children, adolescents, emerging adults, and their families. The American Academy of Pediatrics issued a policy statement in 2019 outlining the evidence of the impact of racism as a social determinant of health.[3]

- **Racism is a core social determinant of health that is a driver of health inequities.** The World Health Organization defines social determinants of health as ***"the conditions in which people are born, grow, live work, and age."*** These determinants are influenced by economic, political, and social factors linked to health inequities (avoidable inequalities in health between groups of people within population and between countries). These health inequities are not the result of individual behavior choices
  or genetic predisposition but are caused by economic, political, and social conditions including racism... The impact of racism has been linked to birth disparities and mental health problems in children and adolescents. The biological mechanism that emerges from chronic stress leads to increased and prolonged exposure to stress hormones and oxidative stress at the cellular level. Prolonged exposure to stress hormones, such as cortisol, leads to inflammatory reactions that predispose individuals to chronic disease.

Most national medical groups have issued statements in the past 2-3 years linking police violence and racism, acknowledging that police violence is a public health issue, and calling for new policies on use of force by police officers.[4]

A recent article in the ***Journal of American Law and Health*** reviewed contemporary recommendations regarding policy changes that can reduce use of force incidents and save lives.[5]

> First, the Department of Justice's (DOJ) investigation and recommendations regarding the Ferguson (Missouri) Police Department provided some important suggestions on use of force policies, including a reorientation toward de-escalation; using the least force necessary (avoiding unnecessary uses of force); increasing training; improving the depth of reporting and review; and identifying racial and other disparities in force usage. Second, the President's Task Force on 21st Century Policing recommended *"clear and comprehensive policies on use of force,"* including an emphasis on the *"importance of de-escalation"*; a stated *"sanctity*

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[3] Maria Trent, Danielle G. Dooley, Jacqueline Dougé, "The Impact of Racism on Child and Adolescent Health," *Pediatrics* August 2019, 144 (2) https://pediatrics.aappublications.org/content/144/2/e20191765

[4] See, e.g., "Addressing Law Enforcement Violence as a Public Health Issue," American Public Health Association (APHA) Nov 13, 2018 Policy Number: 201811; Jesse M. Ehrenfeld, Patrice A. Harris "Police brutality must stop," May 29, 2020; Internists "Gravely Concerned" About Discrimination and Violence by Public Authorities and Others. Statement attributable to: Heather E. Gantzer, MD, FACP Chair, Board of Regents, American College of Physicians Washington, DC (May 29, 2020); Racism is a public health issue and 'police brutality must stop,' medical groups say. By Jacqueline Howard, CNN, Updated 9:01 AM ET, Mon June 1, 2020

[5] Osagie K Obasogie, Zachary Newman, "Police Violence, Use of Force Policies, and Public Health," *American Journal of Law and Medicine*, Boston Vol. 43, Iss. 2-3, (May 2017): 279-295. DOI:10.1177/0098858817723665

of life" philosophy; ongoing training (such as on shoot/don't shoot scenarios); and data collection.[30]

The Police Executive Research Forum (PERF), a police research and policy organization, has made similar recommendations as well.[31] In a 2012 report, PERF discusses topics such as *"slowing down"* an encounter so as to ensure perception issues (e.g. mistaking a cellphone for a gun) do not unnecessarily escalate a situation and the importance of collecting and analyzing use of force data in noticing patterns.[32] In a 2016 report, PERF lays out a set of *"comprehensive"* policy proposals, including emphasizing the *"sanctity of human life"* in a policy; considering the reasonableness standard in **Graham v. Connor** as a floor and not a ceiling by going beyond this constitutional bare minimum and implementing substantive policies; ensuring proportionality; making de-escalation a formal agency policy (especially for tactical reasons); requiring intervention when other officers use excessive force; giving first aid; prohibiting the shooting at vehicles; documenting force; and using the *"Critical Decision-Making Model."*[3]

One powerful model developed by Campaign Zero relies on empirical analysis of the relationship between clear policies restricting the use of force and the likelihood that officers will kill civilians. We recommend the adoption of the model developed from this empirical work and attach it to this discussion. In other sections of this plan, we offer recommendations regarding pretextual stops and the use of force that is inherent in any detention of a civilian by a police officer.

The Proposal

Required components for effective Use of Force Policies

- Require officers to exhaust all alternatives before resorting to use of firearms. This includes requiring use of non-lethal and less lethal strategies
- Require comprehensive Use of Force data reporting, including every incidence of Use of Force, a threat of Use of Force, and display of a firearm.
- Require Use of Force continuum – establish a force continuum that restricts the most severe types of force to the most extreme situations and creates clear policy restrictions for each weapon and tactic. The policy must contain specific and common scenarios, protocols and methods with mandatory compliance requirements. Policies must describe Use of Force methods to be paired with scenarios and/or encounters. Addition of the continuum to policyhas shown a decrease of 19% in fatalities.
- Require warnings prior to use of firearm. This is contained in Nassau's policy, but not in Suffolk's. Since June, this has been implemented in Arlington, Boston, Dallas, Lincoln, Los Angeles, Reno, and Tampa, and has decreased killings by 5%.
- **Sanctity of Life statements:** all policies must include a reference to preserving and respecting the dignity and liberty of all individuals served by the police. The wording should specifically include references to the 'sanctity of life' and the need for the police to take all possible measures to protect the individual (Campaign Zero/Cooley)[6]
- Have a clear and detailed outline of how the police department interacts with the public after a deadly Use of Force incident. This should include a timeline on addressing the public, providing information and disclosing Body Worn Camera footage as soon as possible.
- Have clear policy on minimal reliance on force, alternatives to forces, factors to consider in use of force, drawing and pointing firearms, duty to render medical assistance and duty to intervene, and

[6] Campaign Zero, "Solutions,"accessed February 17, 2021, https://www.joincampaignzero.org/solutions#solutionsoverview

more that is in the attached model from Campaign Zero below.

See Comprehensive Use of Force Model attached.

Funding

There is no cost to revising use of force policies. While there may be a financial cost to keeping and recording data, it will also save large sums of money in lawsuits. The Nassau County Police Department paid $55 million in misconduct violations and Suffolk County paid $16.8 million in misconduct violations in the last five years.[7]

Comprehensive List of Use of Force Policies

Training:

- Law enforcement agency policies for training on use of force should emphasize containment over confrontation, de-escalation and alternatives to arrest or summons in situations where appropriate.
- Emphasize containment rather than confrontation, assistance, de-escalation techniques that leverage the benefits of patience over urgency, and alternative deferred enforcement measures that can be taken with reduced risk of confrontation at a later time. Leverage time. Wait and investigate. Ensure that enforcement activity and performance assessments are not linked and that enforcement and funding are similarly decoupled.
- At a minimum there should be annual training that includes shoot/don't shoot scenarios and the use of less than lethal technologies.
- Departments must engage in actual Training and should not merely consist of lectures and on-screen computer training but needs to take the form of real scenario experiential training, not virtual, so that the officers can experience what they would hear, feel, sense, and smell and so that their reaction and sensibilities to sounds, explosive noises, ambushes, force, stench, smoke, fog, can be observed, critiqued and analyzed for their reactions.
- Scenario Based training with total immersion of the student into the scenario to interact with live thinking participants/roll players with varied stimulus to create a *"Real Life"* situation. Scenario based training is the closest thing to actual encounters that Police Departments can utilize without injuring their members. It gives the student a real situation awareness to recall when they are faced with this situation in the field. Failure of the Departments to properly train their members using this proven resource fails to give the Officer the understanding of the nature of the circumstances that they can encounter. Scenario based training involves more than watching a video or DITT computer-based video training and answering questions.
- Officers must be progressively trained, retrained, and disciplined to ensure compliance with procedures for, requesting additional units, such as Emergency Service Units, EMS/EMTs/Mental Health Units, and supervision. This simple task can achieve accountability and stem deadly shootings.
- Tactical training, tactical street scenarios, room clearing techniques, building and dwelling searches using tactical cover.

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[7] Calvert, Scott and Frosch, Dan. "Police Rethink Policies as Cities Pay Millions to Settle Misconduct Claims." *Wall Street Journal*, October 22, 2020, https://www.wsj.com/articles/police-rethink-policies-as-cities-pay-millions-to-settle-misconduct-claims-11603368002

- Create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of military operation and avoid using provocative tactics and equipment that undermine civilian trust.
- The arrests and the level of enforcement from the pre-election demonstration rallies should be studied in terms of the amount of enforcement and arrests at BLM versus Trump rallies and lack of enforcement of traffic safety, highway patrol, and vehicular monitoring during Trump rallies that blocked highway on and off ramps and monopolized public roadways.
- Agency policies should address procedures, training and tactics specific for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

Investigations:

Also see CCRB, Inspector General's Office per the People's plan including the following additions to People's Plan Use of Force Policy

- Review of shootings (including animal shootings which are telltale signs of a quick or anxious trigger) should involve in depth investigation of actual circumstances and accountability review, retraining, guidance and reassignment if warranted.
- Holding law enforcement accountable for making false statements, providing false testimony and falsifying police reports and witness statements.
- Internal discipline should not contradict recommendations from external authorities, such as the CCRB and an Independent Inspector General.

Accountability:

Also see CCRB, Inspector General's office, STAT ACT Data collection, and the Right to Know Act, per the People's Plan including the following additions to Use of Force Policy

- Mandate collection, maintenance and reporting of data to the federal government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody deaths.
- Presently the data reporting system is a voluntary program that should be made mandatory. The data collection bill should require that departments report data of the circumstances of the use of force, the race, gender and age of the decedent / shooting subject. The data should be reported to the US DOJ through the FBI's Uniform Crime Reporting System and through reporting systems managed by BJS [Bureau of Justice Statistics].
- Officer Performance Evaluations and promotion recommendations should be reviewed for mention of arrest history as such references to quantity of arrests and thus implicit quotas are found in these materials. This information can also be seen in hours of overtime generated for arrest processing and for court appearances.

Transparency:

Also see CCRB per People's Plan

- Policies on use of deadly physical force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.
- This should also include procedures on the release of a summary statement regarding the circumstances of the incident by the department as soon as possible, but not later than 24 hours after the event. The intent of this directive should be to share as much information as possible.
- Mandate reporting and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data such as that of the communities within the agency's jurisdiction.

Community Collaboration and Engagement:

- Established policies must not lead to practices that result in disparate impacts on various segments of the community.
- Policies must also be clearly articulated to the community and implemented transparently.

Use of Force

Correcting Use of Force policies and practices has been proven to be an effective means to **lower incidences that threaten human life**.

Police Departments represent the awesome power of the state and also **possess the power to take life.**

1.

- **Clearly define** "police use of force."

- Expressly stipulate that the **deprivation of an individual's liberty to continue on their way** during a police inquiry **constitutes the use of force.**
- Include a reference to preserving and respecting the sancity of life of **all individuals** served by the police.

2.

- Have a **clear policy** on minimal reliance on force, alternatives to forces, factors to consider in use of force, drawing and pointing firearms, duty to render medical assistance and duty to intervene.

- Establish a Use of Force **continuum** and train all officers to use it in the field.
- Require officers to **exhaust all alternatives**, including non-lethal and less lethal strategies, before resorting to use of firearm.
- Require **warnings** prior to **use of firearm.**

3.

- Have a clear and detailed outline of how the police department interacts with the public **after a deadly Use of Force incident.**
- Require **comprehensive Use of Force data reporting**, including every incidence of Use of Force, a threat of Use of Force, and display of a firearm.
- Publish all **raw use of force data** on the police department website quarterly and establish a process for outside independent analysis of the data.

Hate Crimes, Non-Designated Crimes, and Incidents

Executive Summary

According to the FBI, ***"A hate crime is a traditional offense like murder, arson, or vandalism with an added element of bias."*** The FBI has defined a hate crime as a ***"criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity."***

Hate crimes have a serious effect not only on the victims but on the entire community. Law enforcement has the crucial duty to both identify, report, and prevent hate crimes to protect our residents. This is not an easy task. There are challenges such as limitation of the law regarding crimes and incidents, investigating and uncovering the perpetrator/ perpetrators, supporting the victim, their families and the whole community, and working to prevent these insidious crimes which not only hurt people and property but create trauma and psychic pain in their wake.

New York State's legislature codified a cogent and compelling assessment of the profound societal impact of hate crimes in its declaration of legislative findings when enacting NY State's Hate Crime law. NYS Penal Law § 485.00 provides, in pertinent part:

> The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as **"hate crimes"**, victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes.

Hate crimes are a manifestation of increasingly complex social dynamics in an increasingly diverse society that require a combination of upstream root cause analysis and mitigation and downstream law enforcement – a blend of prevention, deterrence and accountability. Enforcement alone will not solve the problem. Effective mitigation requires broad public awareness, understanding and participation. Broad public awareness facilitates risk based social intervention and mitigation. In addition, it serves as a force multiplier for the deterrence and apprehension efforts of perennially resource-constrained enforcement agencies.

It falls to law enforcement to facilitate public awareness through accurate classification and effective recording, analysis, and public reporting of hate crime activity. To address hate crimes and incidents, our police force needs to

- Properly identify and report hate crimes and incidents to bring justice and safety to the community.
- Map and track hate crime, non-designated offenses and incidents to see trends, prevent future events, and to provide an accurate picture of what is going and where things are happening in our county.
- Communicate with the public to protect and warn communities and to garner cooperation in prevention and deterrents to these crimes and incidents.

- Support the victim, their family, and the entire community.
- Develop rehabilitation and prevention programs with government, nonprofits and faith communities.

Problem:

According to the US Department of Justice, "the term ***"hate crime"*** was coined in the 1980s by journalists and policy advocates who were attempting to describe a series of incidents directed at African Americans, Asians, and Jews.

"Eliminating hate crime and bias-motivated violence from our communities and our country is one of the U.S. Department of Justice's (DOJ) highest priorities. Hate crimes have a devastating effect beyond the harm inflicted on any one victim. They reverberate through families, communities, and the entire nation as others fear that they too may be threatened, attacked, or forced from their homes because of what they look like, who they are, where they worship, whom they love, or whether they have a disability." Improving the Identification, Investigation, and Reporting of Hate Crimes: a summary report of the law enforcement roundtable, U.S. Department of Justice Hate Crimes Enforcement and Prevention Initiative 2020

Hate crimes differ from other crimes in their effect on victims and on community stability:

- Hate crimes are often especially brutal or injurious.
- Victim(s) usually feel traumatized and terrified.
- Families of victims often feel frustrated and powerless.
- Others in the community who share the victim's characteristics may feel victimized and vulnerable.
- Hate incidents can escalate and prompt retaliatory action.
- Hate crimes and hate incidents create communitywide unrest.

"A swift and strong response by law enforcement can help stabilize and calm the community as well as aid in a victim's recovery. Failure to respond to hate crimes within departmental guidelines may jeopardize public safety and leave officers and departments open to increased scrutiny and possible liability." The International Association of Chiefs of Police (IACP).

There are many problems involved in eliminating hate crimes in our society. These include but are not limited to the following:

- The increase of hate groups and hate filled sentiment in our country and neighborhoods.
- The challenge of identifying the perpetrators, because often events occur not out in the open while they have a wide spread and profound effect on the communities.
- Following state guidelines which define and limit the category of hate crimes in New York. **https://www.ny.gov/designated-hate-crimes**. These laws limit what can be considered a hate crime versus an incident and there is often confusion about the classifications.
- Victims of hate crimes and incidents are often reluctant to report the event to law enforcement.
- There is the challenge of preventing hate crimes.
- It takes vision and a coordinated effort to develop and implement intervention and prevention programs to prevent hate crimes.
- There is a desire on the part of government and politicians to discourage identifying incidents as hate crimes for economic, political, and other reasons. However, unless there is a true accounting of actual events then there will not be actions to address the events and the root causes of them. Also, the community will not be warned or able to protect themselves without knowing what is really going on.

In 2020 the Department of Justice Hate Crimes Enforcement and Prevention Initiative called together a roundtable of law enforcement officers from around the country and wrote A Summary Report of the Law Enforcement Roundtable.

The following top barriers to victim reporting were identified:

1. Poor law enforcement–community relationships.
2. View that law enforcement will do nothing.
3. Citizenship status / fear of deportation
4. Lack of training of law enforcement
5. Hate crimes are difficult to prove; community members are therefore hesitant to report.
6. The public lacks awareness that combating hate crime is a law enforcement priority.
7. The LGBTQ community fears that public knowledge regarding sexuality or status will lead to more bias-motivated violence or intimidation." ….

Participants also engaged in candid discussion of other potential barriers to hate crime identification and reporting, including cultural and personal issues for officers:

1. Politics – don't want to classify certain groups as contributing to hate crime.
2. Personal Implicit Bias.
3. Normalization of Bad Behavior.
4. Gaps in investigative training.
5. Lack of adequate staffing at local levels.
6. Obtaining leadership buy-in at local levels regarding prioritizing hate crime identification.
7. No faith in prosecution of complaints.
8. Lack of resources.
9. Jurisdictional challenges in tribal communities.

The above challenges relate to communities and law enforcement around the country and apply to Long Island as well.

Suffolk County

On January 12, 2014 the Suffolk County Police Department entered into a Settlement Agreement with the Department of Justice. The following definition and provisions of the DOJ 1.13.14 Settlement Agreement are relevant:

- **"Hate Crime"** is a legal term defined by New York State under N.Y. Penal Law § 485.05
- SCPD will implement a policy to track, analyze and report patterns and trends regarding hate crimes and hate incidents.
- Within one year of the Effective Date and annually thereafter, SCPD will **produce a report mapping** and analyzing for potential patterns and trends all hate crimes and hate incidents which have occurred over the previous six months. The report will detail SCPD's planned response to any identified pattern or trend. Throughout the pendency of this Agreement, the report will be provided to the United States at least five business days before the report is made public.
- NYS PL § 145 **Criminal Mischief** is one of the specified offenses enumerated under Penal Law § 485.05 Hate Crimes (3). It is the appropriate charge/classification for incidents in which property is damaged by unauthorized swastika graffiti. This is not even mentioned in the SCPD Hate Crimes Policy document of 2018 (The SCPD had agreed to evaluate their policy documents semi – annually).

- (NYS PL § 145.60 **Making graffiti** prohibits swastika graffiti but it is not enumerated as one of the ***"specified offenses"*** under Penal Law § 485.05 Hate Crimes (3).)
- Every swastika graffiti incident should be classified as a **criminal mischief** (degree of crime determined by value of property damage) and counted as a Hate Crime.
- In a 2004 letter to SCPD Det. Sgt. Robert Reecks, NYS DCJS Hate Crimes Reporting Coordinator James Seymour explained the need to properly classify such incidents so that they are counted as Hate Crime: ***"[s]ome of your reported Making Graffiti incidents comments noted Anti-Jewish or Anti-Black symbols were drawn. If the officer had charged PL 145.00 Criminal Mischief 4th instead of or in addition to Making Graffiti, the incident would be considered a hate crime. Charge PL 145.60 [(Making Graffiti)] only and it is not recognized as a hate crime."***
- In its September 13, 2011 Technical Assistance Letter to the Department DOJ reminded SCPD of NYS DCJS's 2004 guidance reiterating the need to properly classify such events: ***"If officers are given conflicting or inaccurate statements of what the law requires regarding the painting of nooses and swastikas, the county and the state lose the ability to accurately track these forms of hate crimes."***
- Given DCJS's explanation that improperly classified incidents would not be recognized as Hate Crimes and DOJ's admonition that improper classification would cause ***"the county and the state [to] lose the ability to accurately track these forms of hate crimes,"*** SCPD has no plausible excuse for noncompliance. In December 2020, NY Senate Bill 8298-B was signed into law designating swastikas, nooses and the confederate flag symbols of hate.

As recently as January 2021, SCPD Hate Crime Unit representatives informed UJPLI advocates that the unit member responsible for classification continues to classify some events as Making Graffiti, this is possible due to reluctance of the District Attorney's office to prosecute the appropriate charge. The representative denied advocates' request to view the hate crime map.

While the SCPD is providing annual training for officers on Hate Crime, advocates have found that even within the Hate Crime Unit itself, there are different opinions as to the necessity of classifying both hate crimes and hate incidents, the difference between the two and different types of classifications of bias events. If there is confusion within the department, this has to extend to the officers in their training. Currently the data on numbers of hate crimes in the county appears to be inaccurate because of not classifying events according to the law and because there are serious questions as to how many officers are requesting review of events by the hate crime unit and 911 calls requesting help for possible hate crime and identifying bias crimes.

The system currently does not allow the public access to the information about hate crime and incidents in the county. The map is not available to the public and Research and Development does not allow the public to request information. These issues need to be remedied by the following: reevaluate all work of the hate crimes unit, 911 calls, and officers referral, update policy, update training, monitor classifications and mapping, and make available information to the public as agreed in the DOJ agreement. The policy was written in 2018 and has no mention of the Classification of Criminal Mischief along with other inadequacies. A professional consultant could help the department make these improvements.

Critique of current SCPD practices:

This proposal is informed by relevant provisions of NYS Penal Law § 485 **Hate Crimes**, specific relevant guidance provided in June 2004 correspondence of NYS DCJS Hate Crimes Reporting Coordinator James Seymour to SCPD, specific relevant guidance provided in the DOJ September 13, 2011 Technical Assistance Letter to SCPD, provisions of the January 13, 2014 DOJ – SCPD Settlement

Agreement, and relevant provisions of NYS Senate Bill 8298-B **Symbols of Hate**, which was signed into law in December 2020.

These documents were used in the development of this proposal because

- They represent suggestions for best practices.
- They include an analysis of Long Island Law Enforcement practices.
- They provide guidance into how to best classify, report, analyze, map, track and prevent hate crimes.

The SCPD does attempt to do some of the above actions, members of the Hate Crime Unit work hard to investigate complaints of bias. But they do not follow the proper classification of both hate crimes and incidents and rarely use non-designated offenses. There are inconsistent and inappropriate classifications.Thus, their training is not adequate, the number of events are not recorded properly and don't reflect the reality on the ground. While the SCPD claims to be working with the community, they have refused to put their hate crime map on the website previous to the newly created task force. The Hate Crimes policy is out of date and has not been updated in over 2 years. The proactive intervention and prevention programs need to be expanded. They have not used the successful intervention program created by Rabbi Moss, past Chair of the Suffolk County Interfaith Anti – Bias Task Force for years. Since there has not been sufficient compliance, hate crime and incident policy needs to be codified into law. The suggestions apply to both Nassau and Suffolk counties; in fact, all jurisdictions in New York because they rely upon the provisions of New York State Hate Crimes Law for guidance as regards classification and reporting of hate crimes.

Solutions proposed by DOJ Law Enforcement Roundtable

The Department of Justice Law Enforcement Roundtable addressed each of the barriers and identified solutions include the following:

1. Make combating hate crime a priority so the law enforcement agency sends the message that discrimination and harassment will not be tolerated.
2. Ensure sufficient resources are devoted to the prevention, investigation, and reporting of hate crimes.
3. Ensure sufficient staff have the capacity to handle hate crimes investigation and reporting challenges.
4. Review agency management, organizational structure, personnel, and information systems and identify changes necessary to prioritize hate crime enforcement.
5. Provide new recruits and existing officers and deputies with training on hate crime and other related issues to ensure responding officers and deputies are trained to investigate and report hate crimes or incidents.
6. Engage in building community partnerships so that law enforcement becomes aware of potential hate-related problems before they result in a serious crime.
7. Create special hate crime task forces with members from various law enforcement agencies and representatives of the community to coordinate hate crime law enforcement, assist victims, and strengthen the partnership between law enforcement and the community.
8. Create a public awareness campaign within the community that provides information, awareness, and resources for community members and victims of hate crimes. The awareness campaign can range from calling out intolerance to providing resources for potential victims.

9. Develop comprehensive training for law enforcement on identifying and reporting hate crimes.
10. Support law enforcement efforts to develop strong community bonds through systematic hate crime education and outreach efforts.
11. Reward innovative, effective practices to improve law enforcement identification and reporting of hate crimes.

Proposals:

Handle all alleged hate crimes and incidents according to the requirements of NY state law, maintain updated and complete policy on hate crimes with standardized training for all officers, monitor officer compliance with updated policies, publicize data and hate crime maps monthly on the police department website, and develop programs to educate the community, support victims, and intervene with perpetrators.

Necessary component for Nassau County:

- NCPD should designate a dedicated trained special investigation unit specifically for bias incidents. Currently, NCPD POL.4315 states, ***"The Detective Division is responsible for the investigation of bias crimes, and the Bias Crime coordinator assists investigations, conducts analysis, develops intelligence, educates members of the Department, and acts as a liaison to the community and outside agencies on issues related to hate crimes."*** It is not clear from the existing Bias Incidents/ Hate Crimes policy, OPS 8130, if the Special Investigations Squad (SIS) is such a dedicated, trained special investigation unit.

Necessary components of the proposal to be fully implemented by the police department and codified by the legislatures of both Suffolk and Nassau Counties with annual oversight by members of the Public Safety Committees of each legislature.

- Use all the Hate Crimes designated by NY State Law and every section of the law in the work of classifying hate and bias acts and train all police department members in this yearly.
    - All incidents in which swastika graffiti is inscribed on property without the express authorization of the property owner should be classified, recorded and reported as Criminal Mischief and counted as a Hate Crime. In cases of arrest, record the charge.
    - The Hate Crimes Unit / dedicated unit must update and map hate crimes , non-designated offenses, and incidents monthly, publish the map on the police department website easily identified with the above information for the community, and share the map with the Public Safety Committee of the Legislature and relevant oversight boards established through police reform efforts.
- Record and track all hate crimes, non- designated offenses and hate and bias incidents. This should include date, time, precinct and latitude and longitude of incident, classification, info about victims or property, ie public, private, car, house, fence, mechanism used to register complaint eg. 911, phone, email, precinct officer, type of property, nature and value of property, type of damage, method such as use of paint, etching, noose, age, race, and other demographics of the victim and offender, suspect description: gender, race, age, religion, sexual orientation and ethnicity, the statute and the section used for classification. It should note if the defendant is a recidivist. If arrested, indicate the charge information. Include data on referrals for support to both the victim and defendant.
- Ensure that all officers and supervisory staff receive annual, thorough, accurate, updated hate crime

and hate incidence training to increase the competence of the officer to respond to a hate crime, non-designated offense or incident in a bias-free in a respectful, and appropriate manner to identify and classify a hate incident and crimes appropriately.

  - The curriculum will include hate crimes, hate bias crimes, hate incidents, and non-designated offenses and how to charge offenses and avoid the downgrading of crimes and how to identify trends, prevention, and working with the local community.
  - The training should be interactive, and trainers must include members of the affected communities.
  - The department will develop a system to monitor officer compliance, including 911 calls and patrol officers' referrals and communication with victims and the community, should be put into place.

- Design policies, programs, and activities to implement prevention with individuals and groups and provide support to victims and communities with monitoring and evaluation of the effectiveness of the programs.
- Design policies, programs, and activities to implement prevention with individuals and groups and provide support to victims and communities with monitoring and evaluation of the effectiveness of the programs.
- Evaluate and revise policies yearly.
- Communicate with the community through quarterly reports on the website, and scheduled public hearings of the Public Safety Committee of the Legislature, education programs to stop hate and bias, and information on how to report a hate or bias incident or crime. (Nassau County: According to POL 4315, the department currently engages the community in STOP (Students and Teachers Opposed to Prejudice), and PAVE (Police Anti-Vandalism Education) to target young people.)
- Engage an outside consultant from the DOJ, NY State, or other recognized organization to help revamp the policies and practices of the unit and provide training to all the unit and all the supervisory staff up to the top commanders.
- Support hate crime/designated unit members to attend conferences and trainings by experts in the field to continually update their knowledge and skills.

Hate Crimes

Codify existing and/or non-existing policies below into **legislation**, and **fully implement them** by the Long Island police departments.

1.

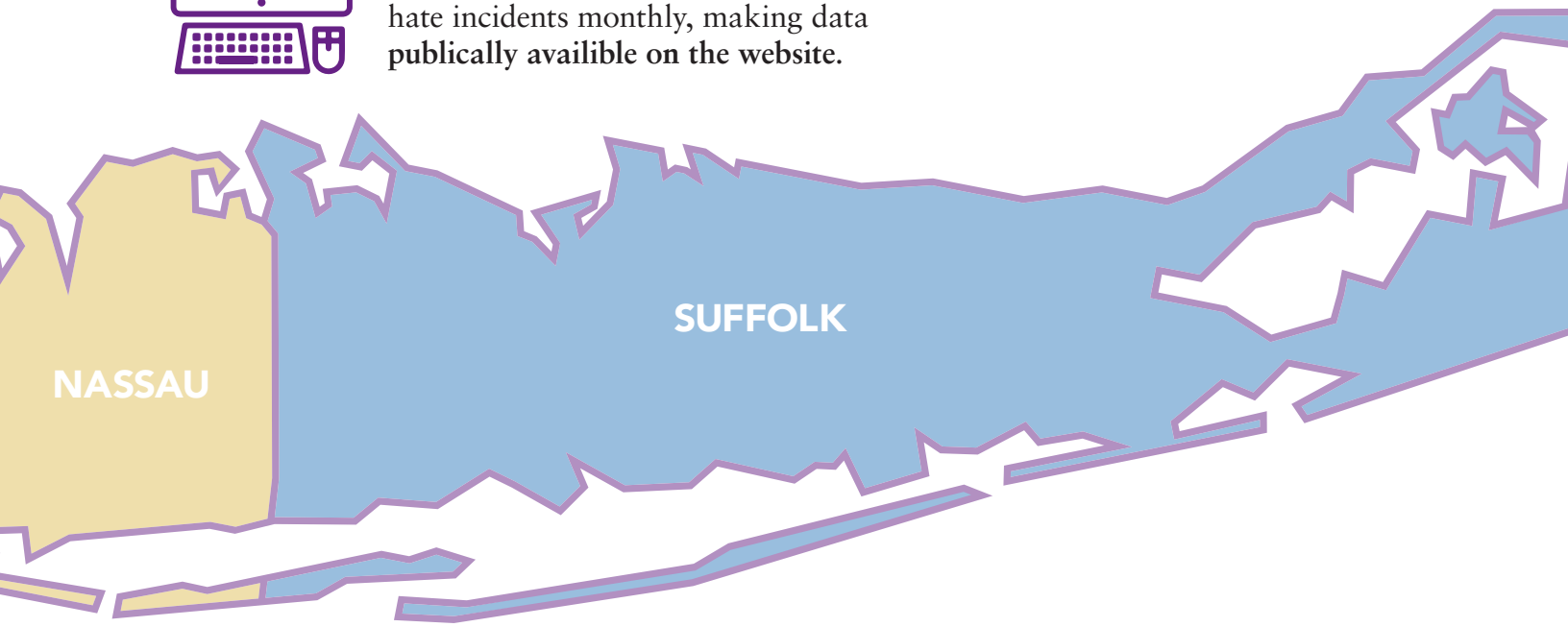
- Hate Crimes, Hate Incidents, and nondesignated hate offenses, **should be classified *correctly*** following the New York State law.

2.

- All incidents in which a noose is displayed or swastika graffiti is inscribed on property* should be classified, recorded, and reported as **Criminal Mischief** and counted as a **Hate Crime**. In cases of arrest, record the charge.

3.

- Hate Crimes Units must update and ***map*** hate crimes, non-designated offenses and hate incidents monthly, making data **publically availible on the website.**



4.

- All officers and supervisory staff must receive **annual training** in hate crimes and incidents policy and law.
- Implement prevention, **restorative justice programs** & community info. sharing.
- Outside consultant must **advise, retrain and support** the unit.

*without the express authorization of the property owner

Improving the Treatment and Safety of Transgender, Intersex, & Non-Binary People

A Best Practices Policy Summary for Police Departments

Section Summary

There is an urgent need to create safe and affirming relationships between gender-expansive citizens and law enforcement officers. Professionalism and sensitivity can create an environment of respect and trust. Officers who are supportive of gender-expansive citizens will increase lines of communication which may be helpful in solving or preventing crime. Departments and staff that are willing to create fair and thoughtful policies will create a community where all citizens feel safe and trust their law enforcement officers, regardless of their sexual orientation, gender identity, or gender expression.

Issues That Must Be Considered

The gender-expansive community consists of people whose personal identity does not match the sex and/or gender assigned to them at birth. It includes a wide range of identities and experiences outside gender expectations. It refers to many types of people including transgender, gender non-conforming and non-binary, and intersex people.

It can include those who use medical intervention to attain the physical characteristics of their gender as well as those who take no steps to modify their bodies.

Being a member of this community is not a "lifestyle" or a "choice." The American Medical, Psychological, and Psychiatric Associations all define this condition as a disconnect between the sex assigned at birth and the gender role the brain identifies with.

Because of rampant employment and housing discrimination, many gender-expansive people are forced to participate in survival sex work and drug sales for food or a place to sleep.

In a national transgender survey, more than half (57%) of respondents said they were either somewhat or very uncomfortable asking the police for help.[1]

From that same survey, 58% of those who interacted with police or law enforcement officers reported some form of mistreatment, such as being referred to as the wrong gender, verbally harassed, or physical or sexually assaulted.[1]

Nearly one-third (30%) of respondents who were incarcerated were physically and/or sexually assaulted by facility staff and/or another inmate in the past year.[1]

Most law enforcement officers are cisgender, meaning the designation that was given to them at

[1] James, Sandy E, et al., "The Report of the 2015 U.S. Transgender Survey," National Center for Transgender Equality, December 2017, transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf Chapter 14 (Police, Prisons, and Immigration Detention)

birth matches completely with their internal gender identity. As with most members of the general public, they believe that sex categories are binary, fixed, and easily identifiable at birth. Unfortunately, these beliefs lead to transphobia, the mix of cultural and personal beliefs that produces hostility, fear, discomfort, and distrust. These personal feelings can transform into severe actions that are directed towards those who do not conform to society's gender expectations.

Respectful Treatment

The most important issue when dealing with gender-expansive people is providing respectful treatment. This means treating individuals in a manner appropriate to the person's gender identity and/or expression. Further, it means treating gender-expansive individuals in the same manner as you would any cisgender person.

A policy that provides a safe and affirming relationship includes:

- Understanding that most gender-expansive people are law-abiding. There is no need to stop, question, search, or arrest a person simply due to an individual's gender identity, gender expression, or sexual orientation.

- Clearly stating that an officer shall not fail to respond to a call for service or complaint on the basis of the gender identity, gender expression, and/or sexual orientation of the caller or complainant.

- Clearly stating that an officer must provide medical attention to a gender-expansive person with the same urgency and respect as any cisgender person's medical issues.

- Clearly stating that an officer shall not fail to respond to an individual, fail to investigate crimes, or fail to take requests or complaints seriously on the basis of someone's actual or perceived sexual orientation, gender identity or expression, including calls to report cases of domestic, sexual, homophobic, or transphobic violence.

- Clearly stating that when responding to calls for service relating to domestic violence, assault, harassment, or other concerns, officers shall not make assumptions about which individual(s) may be victims and/or suspects based on their gender identity, gender expression, and/or sexual orientation.

- Addressing gender-expansive individuals by the name they currently use, remembering that the individual is validated every time someone uses their chosen name and pronouns.

- Understanding that an individual's name may change between one interaction and the next.

- Using the appropriate gender pronouns as requested by the individual.

- If it is unclear what gender the person identifies as, officers politely and discreetly asking the individual what gender pronoun and name they use.

- Understanding that the person's gender identity and expression may be different from the sex listed on their official government-issued identification.

- When an individual self-identifies as transgender or states the name or gender they use, officers not challenging this identity or requesting names previously used unless there is reasonable suspicion that such information is necessary for investigative purposes.

- Individuals not being penalized or suffering retaliation for clarifying name and pronoun usage by members of the department.

- Never inquiring about intimate details of a person's sexual practices, genitals, anatomy, or medical history

- Not using language that is demeaning or derogatory to another person, including language aimed at a person's gender identity, gender expression, or sexual orientation. This includes the terms "he-she", "tranny", "faggot", "it", "thing", and "dyke".

- Never searching or frisking a gender-expansive person for the purpose of viewing or assigning them a gender based on the person's anatomy or genitalia.

- Understanding that the presence of needles may be indicative of prescribed hormone treatment and is not necessarily indicative of illegal drug possession or use.

- Never engaging in sexual harassment of any members of the public.

- Never subjecting gender-expansive individuals to more invasive searches or frisk procedures than other cisgender individuals would experience.

- (SUBJECT TO OFFICER'S SAFETY) before conducting any search of an individual, officers conducting the search asking the gender-expansive person their preference with respect to the gender of the officer conducting the search. (For example, in most cases, a transgender woman usually will prefer to be searched by a female officer).

- Officers transporting gender-expansive individuals with other arrestees of the same gender identity and expression unless the individual has expressed a safety concern and the wish to be transported alone or with people of a different gender identity.

- Officers being prohibited from confiscating unused condoms from individuals under any circumstances.

- Prohibiting officers from citing or relying on the presence or possession of condoms to any degree as the basis for reasonable suspicion or probable cause to believe that an individual has engaged in or intends to engage in any prostitution-related charge, including patronizing, promoting, maintaining a premise, or trafficking.

- Prohibiting officers from commenting on the presence or possession of unused condoms, or from asking individuals questions regarding the purpose and intended use of condoms, or regarding their sexual practices.

- If a gender-segregated holding area is required while in police custody, consulting with the gender-expansive person to determine where they feel safest. Such safety preference for placement should be documented in writing.

- Unless individuals express a concern for their safety, housing gender-expansive individuals in a manner consistent with their gender identity. All placements made that are not in accordance with what the arrested individual believes would be safest shall be documented in writing with a detailed explanation for why the safety requests of the individuals were overridden.

- While in police custody, allowing gender-expansive individuals to use the restroom that matches their gender identity or the restroom they feel safest in.

- Never asking gender-expansive people to remove appearance-related items (wigs, bras, undergarments, clothes or cosmetic items) if cisgender individuals are not also required to do so. If the removal of these items is necessary, providing a private place is important.

- Not placing transgender, gender-nonconforming, and intersex individuals in segregated cells/solitary confinement/restricted housing, solely because of their transgender, gender-nonbinary, or intersex status or for their own protection, unless they have expressly requested to be so placed.

- Not handcuffing gender-expansive individuals to railings, chairs, or other devices for any length of time solely because of their transgender, gender nonbinary, or intersex status or for their own protection.

- Not holding gender-expansive individuals longer than necessary for processing.

- If arrestees are permitted to retain and/or take prescription items while in custody, treating prescription hormones like any other prescription medication necessary for an individual's health and wellbeing.

- Intentionally implementing full and regular training of all staff, including new recruits, current members of the department, supervisors, and commanders on this policy and other matters related to the gender-expansive community.

- Trainings led or co-facilitated in a meaningful part by members of the gender-expansive community who have experience with the department and by organizations knowledgeable about these issues.

- Incorporating training on transgender, intersex, and gender-nonbinary issues throughout all officer trainings, including during search and seizure training and "cultural sensitivity" training. Officers shall receive a minimum of a full day of training specifically on transgender, intersex, and gender-nonbinary issues and periodic roll-call trainings or other shorter "refresher" training.

- Anonymously tracking all complaints concerning the quality of police services on the basis of gender identity, gender expression, and/or sexual orientation and making this data publicly available and accessible.

- Ensuring that copies of all complaints against officers concerning the quality of police services on the basis of gender identity, gender expression, and/or sexual orientation shall be brought to the attention of the relevant civilian oversight agency.

- Developing a process for annual reviews of policies and training materials and clear mechanisms for soliciting feedback on policies from community members.

- Creating policies and procedures to reach out to the community and recruit gender-expansive officers and staff to the department.

Trans., Non-Binary, & Intersex Safety

The Gender-Expansive community consists of people whose **personal identity does not match the sex and or gender assigned to them at birth.** It refers to many types of people including Transgender, Gender Non-Conforming and Non-Binary, and Intersex people. The most important issue when dealing with gender-expansive people is providing **respectful and equal treatment.**

Respectful Treatment

- Professional **directions regarding appropriate behavior** while interacting with gender-expansive community members and the consequences of failing to comply.
- Specify the use of the individual's **chosen name and pronouns.**
- Prioritize respectful search and frisk; **transporting** of individuals; **holding / housing placement; restroom use;** removal of appearance-related items; use of segregated cells / solitary confinement / restricted housing; allowing arrestees to retain and or take **prescription items** while in custody, including prescription **hormones;** and providing medical attention with urgency and respect.
- Create full and regularly scheduled training of all staff on transgender, intersex, and gender-nonbinary issues including **during** "search and seizure" training and "cultural sensitivity" training.
- Create clear procedures for **community members to report discrimination** or disrespectful treatment.
- Anonymously track **all complaints** concerning the quality of police services on the basis of gender identity, gender expression, and or sexual orientation.
- Create a commitment to inclusion by **recruiting and hiring** gender-expansive people.

Ending the Use of School Resource Officers

The Case for Police Free Schools

Section Summary

Police are not accountable to, nor supervised by, school authorities. Nevertheless, punitive school discipline practices often push vulnerable students out of school and into the criminal justice system. Police presence in schools, along with zero tolerance discipline policies, lead to the criminalization of typical adolescent behavior. Common behavior, like talking back, dress code violations, cutting class lead to suspension under a zero-tolerance regime. In schools with School Resource Officer (SRO) programs, such harsh school discipline practices have become intertwined with the criminal legal system, and vulnerable students have been arrested and some deported.

A School Resource Officer (SRO) is a sworn law enforcement officer responsible for safety and crime prevention in schools. SROs are similar to regular police officers, in that they have the ability to make arrests, respond to calls for service, and document incidents that occur within their jurisdiction. An SRO's jurisdiction is a school, but the SRO's primary responsibility is law enforcement.[1]

Harsh school discipline policies disproportionately impact students of color, students with disabilities and students who identify as lesbian, gay, bisexual, transgender or queer/questioning (LGBTQ). Additionally, these programs present a particular danger to immigrant students when police in schools share information with Immigration and Customs Enforcement (ICE).

Increased police presence in schools has caused a dramatic increase in contact with law enforcement, an expansion in the types of roles police play in schools, an increase in student referrals to police, an increase in student arrests, and accountability problems stemming from student-police contact. The presence of permanent school police officers shifts school's focus from learning and supporting students to over-disciplining and criminalizing them. Students are removed from classes, subjected to physical restraint, interrogated, and their rights to education, due process, and equal treatment have been violated.[2]

On the other hand, no data indicate that police in schools improve either the students' mental health, their educational outcomes, or their safety—indeed, in many cases police are causing harm by their very presence in the school.[3]

This section provides evidence in support of the recommendation that the Suffolk County Police Department end its/their practice of deploying SRO's in schools.

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[1] Coshandra Dillard, "The School to Deportation Pipeline," *Teaching Tolerance Magazine*, Iss. 60, Learning For Justice Fall, 2018, https://www.tolerance.org/magazine/fall-2018/the-school-to-deportation-pipeline

[2] Amir Whitaker, et al., "Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students," American Civil Liberties Union, accessed February 17, 2021, https://www.aclu.org/report/cops-and-no-counselors

[3] Aaron Kupchik, "School Policing: What the Research Shows," June 11, 2018, https://www.endzerotolerance.org/single-post/2019/03/11/Research-on-the-Impact-of-School-Policing

The Problem With School Resource Officers

UJPLI has been working since 2017 to reform and bring justice to Long Island's Police, including by working to address the problems created by the School Resource Officer Program. We have responded to Governor Cuomo's Executive Order #203 by examining the role of policing in Long Island's evolving yet enduring system of institutional racism. Newsday's extensive reporting has contributed significantly to revealing the scope and breadth of the enduring structures of institutional racism.[4] Those structures, including police culture and enforcement practices, remain the proximate cause of profoundly disparate outcomes in education, housing patterns and criminal justice. These structures also combine to produce profound inequities and frightful public health outcomes, as evinced by racial disparities in COVID 19 fatalities.[5] Recent comments by police labor leaders betray arrogance, antipathy for civilians and a deeply engrained and disturbingly racially biased law enforcement culture. The financial might and political influence of police unions are significant impediments to meaningful reform.

According to the United States Department of Justice, School Resource Officers "are sworn law enforcement officer responsible for safety and crime prevention in schools…the responsibilities of SROs are similar to regular police officers in that they have the ability to make arrests, respond to calls for service, and document incidents that occur within their jurisdiction…beyond law enforcement, SROs also serve as educators, emergency managers and informal counselors."[6]

Over the last 20 years the number of police officers stationed or regularly present in schools has increased exponentially. In 1975, only one percent of schools were patrolled by police officers. Since then, that number has sky-rocketed to encompass nearly half of all public schools (48 percent), according to the National Center for Education Statistics (NCES).

The growth in police assigned to schools has been driven by the widespread media coverage of mass school shootings, such as Columbine High School in 1999, Sandy Hook Elementary School in 2012, and Stoneman Douglas High School in 2018, as well as widespread availability of grant funding (federal and state), rather than by a documented uptick in violent incidents in a specific school or any evidence of the effectiveness of this approach. In a national survey of principals and law enforcement funded by the U.S. Department of Justice, fewer than 4 percent of each group stated that the decision to hire a School Resource Officer (SRO) was due to the level of violence in schools. Rather, the top reason for starting an SRO program given to researchers by police officials was "disorder" (23.5 percent); for principals, the top reason was "national media attention about school violence" (24.5 percent).[7]

New York State Education Law defines the roles police may play in schools in section 2801-a Chapter 16, Title II, Article 55. The law requires a district-wide School Safety Plan and a Building-level Emergency Response Plan for each building in the district. Building principals are required to

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[4] See, Newsday, "Suffolk Police Stopped, Searched Minority Drivers at Higher Rates," October 20, 2020, https://www.newsday.com/long-island/investigations/police-traffic-stops-1.50041710; and Newsday, "Documentaries: Long Island Divided," https://projects.newsday.com/long-island/real-estate-investigation-videos/.

[5] United States Center for Disease Control, "COVID-19 Racial and Ethnic Health Disparities," U.S. Department of Health & Human Services December 10, 2020, https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/increased-risk-illness.html

[6] The Office of Community Oriented Policing Services, "Supporting Safe Schools," United States Department of Justice accessed February 17, 2021, https://cops.usdoj.gov/supportingsafeschools

[7] Travis III, Lawrence F. and Coon, Julie Kiernan, "The Role of Law Enforcement in Public School Safety: A National Survey," October 2005, available at: https://www.ojp.gov/pdffiles1/nij/grants/211676.pdf

form a building-level emergency response team that should include representatives of administrators, teachers, and parent organizations, school security personnel and staff, bus drivers, school monitors, communitymembers, law enforcement officials, fire officials, or other emergency response agencies. The safety plans and building-level response plans clearly define actions and roles of all parties involved in the plan if an emergency arises. Plans must be reviewed annually by the school safety response team, filed with the local law enforcement agency and the state police within thirty days of their adoption, reviewed
annually by the Safety Response Team and submitted to the Commissioner of NY State Ed Dept. by October 1 of every year.

In New York and across the country, police departments have promoted their programs to schools and schools have considered and adopted many approaches to increasing safety and reducing crime. One of these approaches has been to station police officers or encourage their presence in schools on a regular basis. These officers are commonly known as School Resource Officers. In Suffolk County, the Suffolk Police Department trained 30 additional officers as School Resource Officers.

Following the murders of George Floyd, Breonna Taylor and countless others, the issue of policing practices in our communities and in our schools, particularly communities of color, has received new attention. Several jurisdictions, including Oakland, CA, Denver, CO, and others have decided to remove police from schools, and many others have considered it.

Suffolk county is home to more than sixty school districts, each with its own school board. We are served by many police departments: one county police department (Suffolk County Police Department, "SCPD") and, five town police departments (Riverhead, Southampton, East Hampton, Southold and Shelter Island). We will focus our recommendations on the Suffolk County Police Department and the school districts that fall under the SCPD's jurisdiction.

Suffolk County-based advocates and members of communities of color have tried since 2016 to secure agreement by the Suffolk County Police Department to share details of its SRO program and of the role of an SRO in public schools. Between 2016-2020, the SCPD would not tell advocates the number of officers in its SRO program nor the number and name of the schools where department had placed SROs. In 2017, then SCPD Commissioner Sini admitted that the SROs shared information they had about particular students with school administrators. When pressed to confirm whether or not the information SROs collected while they were in schools also made its way to SCPD and that SCPD then shared that information with federal authorities like Immigration and Customs Enforcement, Commissioner Sini's response was "SROs work for me, so the answer is definitely yes." Commissioner Sini has also stated that "any information they (SROs) collect while they were in the schools makes it back to my desk…the school is like any other sector for the SROs". When pressed further by advocates Commissioner Sini said, "all of the information SROs collect makes its way" to him and the "appropriate units in the precincts."[8] Although Commissioner Sini also insisted that "SROs play a lot of different roles…there are SROs who are more focused on mentoring, pushing programs into the classrooms and identifying at risk children to connect them to much needed services,"[9] advocates, students, and families in communities of color understood that one principal responsibility of an SRO was to use the information collected from students or school administrators for law enforcement purposes, including deportation.

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[8] Public meeting with community members hosted by advocates at Touro Law School pursuant to DOJ Agreement, August 16, 2017; notes on file with the authors.
[9] ibid.

In August 2017, the New York Civil Liberties Union (NYCLU) submitted a request under the Freedom of Information Law to the Suffolk County Police Department for information regarding its role in identification, arrest, and detention by federal authorities of immigrant students. The NYCLU was concerned that cooperation between Suffolk County Police Department, the South Country Central School District (and other school districts) and federal immigration authorities had led to dozens of children being removed from their families, placed in restrictive detention facilities and into deportation proceedings based on spurious claims of gang affiliation. In 2018, 8 months after filing its records request and after repeated inquiries, the NYCLU filed suit against the SCPD for failing to answer its public records requests. The suit is ongoing.[10]

Despite the SCPD's recent public attempts to rebrand their SRO program by describing SROs as "mentors, counselors and educators,"[11] the Memorandum of Understanding SCPD is asking school districts to enter stipulates that the primary responsibilities of an SRO are law enforcement related. The testimony we have heard from students and their families also clearly shows that SRO's will continue to enforce criminal laws within the school walls.[12] This poses an unacceptable risk of arrest for minor infractions of school rules on Black, brown, and immigrant students.

Regular Police Presence Does Not Reduce Student Crime and Police Do Not Prevent Mass Shootings

Two main claims made by proponents of increased policing, like the SCPD, are that police and SROs can control and prevent crime among students; and prevent and thwart armed attacks on schools (i.e., school shootings). However, research shows that schools are relatively safe places and little evidence supports the conclusion that placing SROs in schools increases school safety.[13] In spite of public fears and media attention, school shootings are indeed very rare. According to the National Center for Education Statistics, there were 18 homicides of students at schools across the United States in 2016-2017. In comparison, there were 1,587 homicides of youth ages 5-18 outside of school during that same school year, illustrating how relatively rare it is that students suffer violent deaths in school.[14] The recent shooting incident in Parkland, Florida demonstrated clearly that the presence of police officers in schools does not fully protect schools from experiencing school shootings, as the law enforcement officer stationed at the school failed to intervene to stop the shooter.[15] Further, no clear empirical basis for the claim that SROs reduce student crime rates exists. A study published in 2020 found that

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[10] For documents related to the NYCLU lawsuit, see https://www.nyclu.org/en/press-releases/nyclu-sues-suffolk-police-force-school-deportation-pipeline-transparency; and https://www.nyclu.org/sites/default/files/field_documents/2018-04-09_signed_verified_petition_00063350xb2d9a.pdf

[11] Suffolk County Police Department, "School Resource Officer Program," https://scpdcrb.suffolkcountyny.gov/School Resource-Officer-SRO, see also https://tbrnewsmedia.com/suffolk-police-schools-reach-agreement-on-sros-job-description/

[12] Template Memorandum of Understanding Between SCPD and Long Island School Districts, available at: https://www.pmschools.org/cms/lib/NY01001244/Centricity/Domain/8/DISTRICTWIDE%20SCHOOL%20SAFETY%20PLAN%20-%20SEPTEMBER%202020.pdf

[13] James, N., & McCallion, G., "School resource officers: Law enforcement officers in school," Washington, DC: Justice Policy Institute (2013), https://fas.org/sgp/crs/misc/R43126.pdf, and "Na & Gottfredson, Police officers in schools: Effects on school crime and the processing of offending behaviors," *Justice Quarterly*, 30 (4), 2013 pg. 619-650, https://doi.org/10.1177/1541204016680405

[14] Ke Wang, Yongqiu Chen, Jizhi Zhang and Barbara Oudekerk, "Indicators of School Crime and Safety: 2019" U.S. Department of Education; U.S. Department of Justice, Office of Justice Programs (NCES 2020-063/NCJ254485), July 2020 http://nces.ed.gov/pubs2020/2020063.pdf

[15] Congressional Research Service, "School Resource Officers: Issues for Congress," July 5, 2018, https://crsreports.congress.gov/product/pdf/R/R45251

[16] Denise C. Gottfredson, et al. "Effects of school resource officers on school crime and responses to schools crime," *Criminology and Public Policy*, August 10, 2020, pg. 905-940, https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12512

increasing the number of SROs in schools does not reduce school records of any form of school crime.[16] The most rigorous research indicates SRO presence is related to higher levels of referral of students to law enforcement and arrest.[17]

The Human Costs of Increased Policing in Schools Are Real

While there is no conclusive evidence that SROs reduce crime among students or prevent mass shootings, the research shows that the potential costs to students and communities are real.

The presence of SROs can mean increased rates of arrests of students for minor offenses, such as disorderly conduct or simple assault, resulting in greater numbers of children than necessary being exposed to the criminal/juvenile legal system.[18] Despite efforts to reduce the harm of policing in schools through training,[19] available evidence still suggests that the presence of SROs results in greater likelihood of justice system involvement for youth. In other words, because police officers are in schools, students are arrested, where no arrest would occur if the SRO was not present. Research also shows that schools with SROs tend to have higher rates of exclusionary school discipline (suspensions and expulsions) than do other, comparable, schools.[20] While many Memoranda of Understanding between schools and police departments dictate that SROs should not be involved in discipline for misbehavior that does not rise to the level of criminal behavior, recent research suggests that SROs nevertheless involved themselves in school discipline in subtle and informal ways.[21] Locally, SCPD SROs have testified in superintendent suspension hearings in cases involving school code violations even in cases where the infraction did not rise to the level of criminal behavior.[22]

In 2019, New York State adopted a new requirement for school districts to reduce and regulate the role of police in schools. New York Education Law § 2801-a(10) requires every school district with law enforcement, School Resource Officers (SROs), or even security guards, to adopt a written Memorandum of Understanding (MOU) that clearly defines the role of police, and keeps them out of disciplinary matters. The new law places responsibility for school discipline squarely with educators, not police, and requires districts to engage with the public about their school safety program.[23] Despite this exceedingly clear legal mandate, the MOU that the Suffolk County Police Department has entered into with some local school districts explicitly states that the role and responsibilities of an SRO include but are not limited to the following: performing duties, responsibilities of a duly sworn officer,

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[17] Na & Gottfredson, 2013; Jason P. Nance, "Students, police and the school-to-prison-pipeline," *Washington University Law Review*, 93 (4) 2016, pg. 919-987; Emily Owens, "Testing the school-to-prison-pipeline," *Journal of Policy Analysis and Management*, 36 (1) 2016, pg. 11-37

[18] Steven Teske, J. Brian Huff, "The Court's Role in Dismantling the School-to-Prison Pipeline," *Juvenile and Family Justice Today*,Winter 2011, pg. 14-17 accessible at, https://www.nycourts.gov/ip/justiceforchildren/PDF/Capital%20Region%20Summit/AR/2%20P3.AR%20-%20Courts%20Role.pdf; Na and Gottfredson, ibid., 2013

[19] See, for example, https://www.nasro.org/training/training-courses/

[20] Fisher, Benjamin W. and Emily A Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. HighSchools: A Systematic Review and Meta-analysis," *Adolescent Research Review*, University of Buffalo, 1:217–233, 2016, https://ed.buffalo.edu/content/dam/ed/safety-conference/Fisher%20%26%20Hennessey%20(2016).pdf

[21] F. Chris Curran, Benjamin W. Fisher, Samantha Viano, Aaron Kupchik, "Why and When Do School Resource Officers Engage in School Discipline? The Role of Context in Shaping Disciplinary Involvement," *American Journal of Education* 126, 2019, pg. 33-63 https://www.journals.uchicago.edu/doi/abs/10.1086/705499?journalCode=aje

[22] CUNY Law School & New York Immigration Coalition, "Swept up in the Sweep: The Impact of Gang Allegations on Immigrant New Yorkers," May 2018, https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/immigration/SweptUp_Report_Final-1.pdf

[23] NYCLU, "Recommendations for a Memorandum of Understanding Between Police and Schools," December 16, 2019, https://www.nyclu.org/en/publications/recommendations-memorandum-understanding-between-schools-and-police

understanding school code of conduct and assisting school personnel in observing/reporting infractions, handling requests for service in/around school, follow up on reports generated at school, and engaging parents/community as needed. The MOU drafted by SCPD does not comply with the law in that it does not keep its SROs out of disciplinary matters.

While we were hopeful that this new requirement would decrease the number of students exposed to the criminal legal system, we have learned that it does not go far enough. The New York Civil Liberties Union has created a Model MOU that satisfies the law's requirements while protecting and promoting student rights and contributing to a supportive school climate.[24] This MOU does not describe a perfect school. Rather, it is a set of policies intended to limit the ways that we know police in schools can harm kids and families. These policies are based on the NYCLU's experiences representing students in situations caused by interference of police in day-to-day school operations. Suffolk advocates have encouraged school districts to remove SROs from its schools and have impressed upon those school districts that currently have SROs in their schools to insist on a more comprehensive MOU with SCPD, like the NYCLU's Model MOU, to create guidelines for unexpected situations until all SROs are removed, so educators are not called upon to make policy determinations on the spot.

The **School to Prison Pipeline** refers to school policy and procedures that drive many school children into a pathway that begins in school and lands in the criminal justice system. Zero Tolerance policies mandate harsh penalties for even minor disciplinary issues - talking back, or violation of dress codes which can lead to school suspension. For schools with school-based policing - SRO programs - these same issues can lead to student arrests because school discipline and the criminal legal system have been intertwined. Harsh school discipline policies disproportionately impact students of color, students with disabilities and students who identify as lesbian, gay, bisexual, transgender or queer/questioning (LGBTQ).

SROs Target Immigrant Students

The **School to Deportation Pipeline,** like the School to Prison Pipeline, is fueled by aggressive immigration enforcement, which has made school an increasingly risky place for undocumented and other immigrant students. Infractions that typically would have been handled by school personnel, now involve the School Resource Officer (SRO), who in turn may contact Immigration and Customs Enforcement, funneling the student into the punitive immigration system. Further, School Resource Officers collect unverified tips and information while they roam the school halls and then share the information with their department, which can pass it on to immigration agents. For immigrant students and their families, that means facing outsized threats of detention and deportation based on minor lapses. Some districts, with SRO's involvement, have made flimsy allegations of gang involvement to SCPD, ensnaring students in the Trump administration's deportation dragnet.

The New York Civil Liberties Union and the New York Immigration Coalition released a report documenting how allegations of gang membership, no matter how vague or flimsy, can lead to the denial of immigration relief to immigrant youth.[25] The report finds that gang allegations are used to deny petitions for Special Immigrant Juvenile Status, release on bond, and other forms of relief such as

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[24] Sample Memorandum of Understanding available at: https://www.nyclu.org/sites/default/files/field_documents/mou_recommendations_for_schools_and_police_0.pdf see also https://tbrnewsmedia.com/suffolk-police-schools-reach-agreement-on-sros-job-description/.

[25] NYCLU, "Stuck with Suspicion: How Vague Gang Allegations Impact Relief and Bond for Immigrant New Yorkers," New York Immigration Coalition, 2019, https://www.nyclu.org/sites/default/files/field_documents/020819-nyclu-nyic-report.pdf

asylum, DACA and even U-visas. The report offers guidance to immigration lawyers, schools, police, and elected officials to address the problem. Recommendations include limiting the information that local agencies share with ICE and that schools share with School Resource Officers, as well as implementing laws and policies to ensure gang database information is adequately vetted and reviewed.[26]

Police Presence Alienates Students from their School Community

In schools where students feel valued, respected, listened to, and are part of a community, scholars studying student behavior have found that students are less likely to misbehave, including engaging in criminal behavior.[27] Presence of SROs can make schools' social climates less inclusive in subtle ways. One study found that well-intentioned SROs can still influence schools to be more focused on law and order and less focused on students' social and emotional well-being.[28] Another recent study suggests that the risk of arrest faced by youth of color is shaped by how SROs perceive threats that they might face. This study compared SRO's perceptions of threats in two jurisdictions: one with mostly middle-class white students, and one with mostly low-income students of color. In the school with more white students, SROs were concerned primarily about external threats such as an adult who comes to school wishing to do harm. But in the school with more students of color, SROs saw the students themselves as the primary threat they faced.[29] To the extent that this describes perceptions elsewhere, it might mean that students of color are policed while their white peers are protected. Other studies have uncovered abusive treatment at the hands of SROs, showing clear negative effects on school social climate and students' bonds to schools.[30] The testimonies that members of United for Justice in Policing Long Island, Long Island United to Transform Policing and Community Safety and Suffolk County's Police Reform and Reinvention Taskforce have heard from students, families, social workers, and educators have shown that despite the SROs' purported care for students' well-being and the best intentions toward them, the presence of police in schools can undermine effective student behavior management strategies.

Despite the well-documented harms to students of school-based policing, and the lack of evidence that policing measures make schools safer, the use of school police has drastically increased over the past decades. In 1975, only one percent of schools were patrolled by police officers. Since then, that number has sky-rocketed to encompass 48 percent of all public schools.[31] Historically, the growth in police being assigned to schools has been driven more by national media attention about school violence and the availability of grant funding (federal and state) than by an actual uptick in violent incidents in specific school or any evidence of the effectiveness of this approach. In a national survey of principals and law enforcement funded by the U.S. Department of Justice, fewer than 4 percent of each group stated that the decision to hire a School Resource Officer (SRO) was due to the level of violence in schools. In the survey, the top reason given by police officials for starting an SRO program was

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[26] NYCLU, "Stuck with Suspicion: How Vague Gang Allegations Impact Relief and Bond for Immigrant New Yorkers," New York Immigration Coalition, 2019, https://www.nyclu.org/sites/default/files/field_documents/020819-nyclu-nyic-report.pdf

[27] Philip J. Cook, Denise C. Gottfredson, Chongmin Na "School Crime Control and Prevention." *Crime and Justice* 39, pg. 313-440, 2010 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1368292

[28] Kupchik, Aaron, "Homeroom Security: School Discipline in an Age of Fear," New York, NY: NYU Press, 2010.

[29] Fisher, Benjamin W. , Ethan M. Higgins, Aaron Kupchik, Samantha Viano, F. Chris Curran, Suzanne Overstreet, Bryant Plumlee, and Brandon Coffey, "Protecting the Flock or Policing the Sheep? Differences in School Resource Officers' Perceptions of Threats by School Racial Composition," Social Problems, October 25, 2020, available at: https://doi.org/10.1093/socpro/spaa062.

[30] http://www.aclu.org/other/criminalizing-classroom-over-policing-new-York-city-schools
See also ACLU, "Cops and No Counselors," video available at: https://www.youtube.com/watch?v=5df8Q34PA2E.

[31] Sam Correa, Melissa Diliberti, and Rachel Hansen, "New Data Available on Crime and Public Schools," available at: https://nces.ed.gov/blogs/nces/post/new-data-available-on-crime-and-safety-in-public-schools.

[33] Travis III, Lawrence F. and Coon, Julie Kiernan, "The Role of Law Enforcement in Public School Safety: A National Survey," October 2005, available at: https://www.ncjrs.gov/pdffiles1/nij/grants/211676.pdf.

"disorder" (23.5 percent); for principals, it was "national media attention about school violence" (24.5 percent).[32] MOUs should specify restrictions on accessing and re-disclosing student information.[33] Further, a school district's annual notification of FERPA rights to parents should clearly disclose which categories of individuals operating on school campuses are considered to be "school officials" with legitimate education interests in educational records, and should specifically name SROs where they have access to information.

Process

In 2017, organizations and dedicated activists coalesced to transform policing on Long Island, forming United for Justice in Policing Long Island (UJPLI). We are experienced community advocates who have built a working relationship with the SCPD by monitoring SCPD's compliance with the United States Department of Justice settlement agreement of 2014. After witnessing the devastation caused by the unlawful collaborations between Immigration and Customs Enforcement (ICE) and local law enforcement agencies, we have also worked with many community organizations and challenged the County to end its partnership with ICE and its School Resource Officer Program. We have engaged County Legislators, the Suffolk County Executive, Police Commissioners, and the Suffolk County Sheriff.

United for Justice in Policing Long Island has led a wide range of efforts to raise awareness about the effects of regular SCPD School Resource Officer presence in Suffolk County public schools. UJPLI has engaged in:

- Providing School-to-Prison-Pipeline and SCPD SRO Program Information sessions;
- Education Rights sessions for Parents and students where parents and students were informally surveyed before and after the session on whether they believed police should have a regular presence in their children's school. Majority of parents in session indicated that they did not believe police officers should have a regular presence in their children's schools after they learned that the School Resource Officer was a sworn law enforcement officer whose primary role continues to be a law enforcement when they enter the school doors;
- Quarterly SCPD Commissioner Meetings (as per DOJ-SCPD settlement agreement);
- Participated in Long Island United to Transform Policing and Community Safety's Town Hall Meeting;
- Ending the Suffolk County Police Department's School Resource Program and limiting the role of police in schools to responding to emergency calls;
- Meeting with School Superintendents and other school administrators;
- Bi-Annual Meetings with Department of Justice Office of Civil Rights;
- Monthly Precinct Meetings;
- Commissioners community meetings;

[33] https://ag.ny.gov/sites/default/files/joint_oag-sed_-_ice_sros_in_schools_w_ag_signature.pdf

- Governor's Task Force Guidance;
- Task Force Listening Sessions;
- UJPLI Counselor NOT Cops/Police Free Schools Campaign.

Recommendations Overview

Suffolk County Police Department Must End the School Resource Officer Program
SROs should not be stationed in or allowed to maintain a regular presence in schools. Police should only enter school buildings while school is in session to attend scheduled events or to respond to calls for service. They should have no role in enforcement of administrative policies, rules, and regulations. A student's right to due process and privacy should always be protected; any law enforcement officer in a school building should be prohibited from sharing a student's personal information with other agencies including Immigration and Customs Enforcement (ICE). Funding for SROs should be redirected toward supportive interventions and referral services. Enhanced investment in head start initiatives and targeted skills-based early intervention in the primary grades is a more appropriate, timely, and productive use of financial resources. School districts can implement systems to identify students who are experiencing disciplinary problems and provide behavioral support. There is no need for the stationing or the regular presence of SROs in schools. SRO programs should be ended.

Specific Recommendations

School Discipline Belongs in the Hand of School Leaders
School discipline is the responsibility of the administrators and staff in any school building. All staff are required to implement school discipline policies and are answerable to the school administration. SROs are sworn law enforcement officers responsible for crime prevention. They are accountable to their superior officers and not school administrators. Student rights are violated when in the primary or secondary school setting, a minor child is compelled to speak with law enforcement without the prior express consent of their custodial parent(s) and or the benefit of counsel.

Suffolk County Police Department Should Play No Role in School Discipline
Suffolk County Police Department must end its School Resource Officer Program and limit the role of its officers to responding to calls for service according to the School's Safety Plan, we recommend that the Task Force impress upon SCPD the need to agree to a more comprehensive MOU, like the NYCLU's Model MOU, to create guidelines for unexpected situations, at least until all SROs are removed.

Suffolk County Police Department Should Collect, Analyze and Publicly Disclose Data Regarding Police Activity in Schools
Reporting of enforcement activities involving children in school must be transparent and comprehensive. For many, including former law enforcement, the School Resource Officers Statistics that the SCPD provided to the Task Force left more questions than answers.

We recommend that the Suffolk County Police Department collect/analyze/publish the following data involving SROs in schools up until the date it formally ends its SRO program, and continue to collect comprehensive data even after it ends its SRO program:

LIST ON FOLLOWING PAGE

- Arrests should be reported by school facility, by charge, by race/ethnicity, by gender, by age, by type of officer involved (SCPD SRO, Precinct SRO, Countywide SRO, precinct officer/detective/ unit).

- How many warrantless searches did law enforcement conduct of students' persons, prior to or without arrest, on school grounds?

- How many warrantless searches did law enforcement conduct of students' possessions, including mobile devices, prior to or without arrest, on school grounds?

- How many students were compelled to speak to law enforcement, in the absence of their custodial parent(s) and or counsel about violations of administrative policy, rules and regulations?

- How many students were compelled to speak to law enforcement (SRO, Precinct SRO, Countywide SRO, precinct officer, detective etc.), in the absence of their custodial parent(s) and or counsel about potential or suspected criminal conduct?
  How many of those interrogations resulted in students being surveilled/investigated off school grounds and SCPD unit?

- How many students were subjected to searches of their persons and or possessions, including mobile devices, by school staff, in the presence of law enforcement, in the absence of their custodial parent(s) and or counsel pursuant to potential or suspected criminal conduct? What individualized, particularized elements were evident that reached the threshold that compelled the warrantless search of the minor child? How many of those searches resulted in arrest of the student(s)? How many of those searches did not result in the arrest of the student(s)?

- How many students were subjected to searches of their persons and or possessions, including mobile devices, by law enforcement personnel, in the absence of their custodial parent(s) and or counsel pursuant to potential or suspected criminal conduct?

- What individualized, particularized elements were evident that reached the threshold that compelled the warrantless search of the minor child? How many of those searches resulted in arrest of the student(s)? How many of those searches did not result in the arrest of the student(s)?

- What, if any, contraband was seized from each student searched?

Suffolk County Should Actively Support the New York For All Act

The New York for All Act (S.3076/A.2328) broadly prohibits state and local officers from enforcing federal immigration laws, funneling people into ICE custody, and sharing sensitive information with ICE. It prohibits ICE from entering non-public areas of state and local property without a judicial warrant. It also ensures that people in custody are given notice of their rights before being interviewed by ICE and starts the process of limiting ICE access to state information databases.

Suffolk County Should Actively Support the Solutions Not Suspensions Act
The Judge Judith S. Kaye Solutions Not Suspensions bill requires schools to use proven alternatives to suspension that correct misbehavior and keep kids in the classroom. The legislation:

- Requires school codes of conduct to include restorative approaches to discipline, to proactively foster a school community based on cooperation, communication, trust, and respect.
- Limits the use of suspensions for students in Kindergarten through 3rd grade to only the most serious behavior.
- Shortens the maximum length of suspension from 180 to 20 school days.
- Requires that students who are suspended receive academic instruction, and the opportunity to earn credit, complete assignments, and take exams.

Proposed Model

No workable model for School Resource Officers exists. We demand the elimination of the SRO program, and the redeployment of funds spent on School Resource Officers to build Transformative Justice programs, avoid the criminal legal system, and increase social, emotional learning programs in schools and other supports that improve students' behaviors by meeting students' needs. Our understanding of the problem and its resolution have been informed by extensive engagement with communities, parents, and students, especially communities of color, deep research into the literature and statistics surrounding police involvement in schools, legal analysis, advocacy, and a deeply held commitment to increasing justice. Our knowledge base has been informed by review of the legal approach taken in New Jersey,[34] as well as deep experience as advocates, teachers, school administrators, lawyers, social workers, community activists, people of faith, and even law enforcement officers.

Implementation in Suffolk County Educational Landscape

There are 69 school districts in Suffolk County, along with many private, parochial and charter schools, served by two regional Boards of Cooperative Education (BOCES) Western Suffolk and Eastern Suffolk BOCES. Each of the public school districts are discrete self-governing systems with specific geographical boundaries.

Of the many stark inequities that plague under resourced school districts, whose students are overwhelmingly children of color, the insertion of police officers directly into these school buildings through the SRO program concentrates societal, mental, and physical harms on already marginalized and minority students.

The three-pronged approach necessary to eliminate the School Resource Officer program requires the following efforts:

LIST ON FOLLOWING PAGE

[34]NJ Rev Stat § 2A:4A-21 (2019).

1. The Suffolk County Police Department must end the SRO program in Suffolk County schools and districts.

2. Schools and districts must research, develop, and budget for programs that encourage and support student health, well-being and safety, creating an environment conducive to academic and personal growth.

3. County, State and Federal government must fully fund and prioritize research-based programs and successful models that schools and districts identify as essential for student safety, health and development that maximizes educational excellence for ALL Suffolk County students.

Funding

Redirecting Funding

SRO programs are very expensive. To the extent that funding SRO programs means that evidence-based school crime reduction programs, such as Positive Behavioral Interventions and Supports or Socio-Emotional Learning programs, go unimplemented, opportunities to pursue effective strategies are missed.[35] Suffolk County should redirect any SRO funding and grants toward training teachers and staff in transformative justice models for schools. Initiating school based restorative justice plans improves school climate, promotes student health, wellbeing and connectedness, lower rates of discipline, and reduces racial disparities in disciplining students. Peer circles, peer juries, peer mediation, conflict resolution, restitution and community service are examples of components of a restorative justice school models.[36]

Identify Student Behavioral Challenges Early

A system of early detection and prevention that identifies elementary school students experiencing behavioral and disciplinary challenges has proven successful. Such programs include remediation of problem behaviors, positive reinforcements, supportive interventions and referral services. Concerning middle school through high school students, out of school suspensions or expulsion should be limited to situations where conduct is of a violent or sexual nature that endangers others. Schools should increase the number of counselors and psychologists available to students and families.

There exists a complex network of funding streams that support the operation of a variety of educational and other governmental services. These services may include public health and safety among others. Where a straightforward direct redistribution of funds is unlikely because of statute or lack of imagination, a concerted and enlightened effort must be made by those in power, to identify program needs and procure the fiscal support. An example may be a reallocation from the law enforcement budget to a health initiative funded by the county but targeted to meet the needs of young people through their schools. Private and governmental grant assistance must be designed to specifically address the programs outlined by schools and districts.

The devastating foundational fiscal inequities woven into the fabric of Long Island by the institutional racism that has defined both Nassau and Suffolk Counties from the earliest days, nothing less than a

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[35] Kupchik, Aaron (2016) The Real School Safety Problem: The long-term consequences of harsh school punishment. Oakland, CA: University of California Press

[36] For effective models of restorative and transformative justice programs, see www.edutopia.org, www.weareteachers.com, and wested.org.

revolutionary re-imagination of status quo will suffice. **This support is essential—not optional.**

Conclusion

We strongly recommend that you end the School Resource Officer program. Evidence does not support reliance on school-based police to deter school shootings or crime. While police can play a legitimate and important role in a school's emergency preparedness planning, this role does not require regular police presence patrolling the halls of a school. The harms to marginalized students, and especially to Black, LGBTQ, and immigrant students, from School Resource Officer's inevitable involvement in school-based discipline outweigh any perceived benefit from school-based policing.

SROs Suffolk

Get cops out of schools.

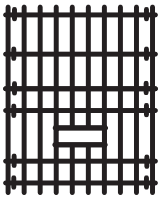
School Resource Officer (SRO) programs should be eliminated and police should be limited to responding to schools' calls for service; the regular, daily presence of SROs is **not necessary** under New York State Education law to participate in a school safety plan.

SROs do collect and share information with other law enforcement agencies.

Their primary responsibility is **law enforcement** and threaten the privacy and due process rights of students

Dicipline by SROs can trigger inequitable, non-diciplinary responses:

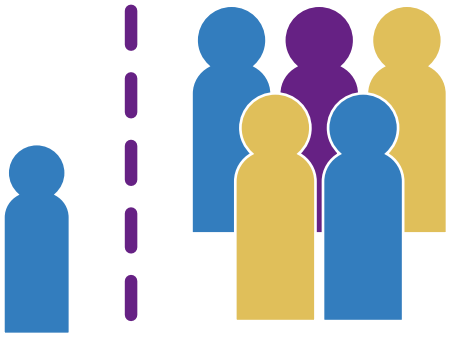
School-to-Prison Pipeline

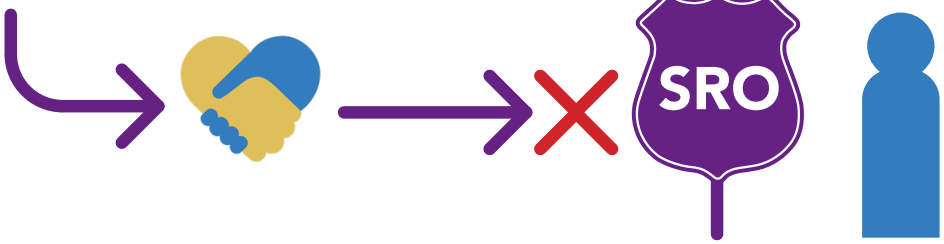


School-to-Deportation Pipeline

Funding can be redirected to building transformative & <u>restorative justice</u> programs.

- SROs **do not** prevent school shootings.
- SROs **do not** prevent crime at schools.
- SROs should **collect & share data** of activity in schools
- SROs **alienate students** from their school community
- SROs should not play a role in school discipline. ***See above.***
- SRO encounters **trigger stress, fear, trauma, and anxiety** for Black and Brown students, and **erode their educational performance.**





SROs and Nassau County

Since 2016 there have been a number of factors that have combined to increase police presence in almost every aspect of life, including schools, in Nassau County.

1. The Nassau County Police Department operates on a Problem-Oriented Policing (POP) model, and runs an aggressive public relations campaign, positioning itself as friends of the community, placing more resources into the community through newer strategies such as Park, Bike, Walk, and Talk, and the creation of 19 community councils in 2018. The POP model requires the collection of intelligence and data, headed by a COPE unit (Community Oriented Police Enforcement Unit) which, according to the Nassau County Police Reform Proposal, is tasked with 'working closely with the community to enhance police-community relations, actively address problems in a community before a crime occurs, and improve the quality of life, and traffic safety in the communities we serve. These tasks are achieved through specialized patrols, activities, and initiatives, all of which further the Department's mission."[1]

   This model of policing is driven by crime science, which focuses on near-term causes and opportunities for crime, and requires an enormous amount of contact with the community, which, while it is positioned as working with the community to create investment and partnership, really makes community members complicit in their own surveillance, while increasing resources in already over-policed areas.

2. Over the past decade, the country has experienced an increasing demonization of immigrants and their communities. With the election of Donald Trump, and the outright 'othering' and criminalization of immigrant communities, Nassau County has been a willing partner, actively engaged in cooperation with ICE, and has worked closely with federal law enforcement on gang identification programs like Operation Matador, creating the need for intelligence gathering capacities over youth specifically, and with very little transparency or oversight.

3. In 1998, New York City began placing police officers in schools, allowing them to participate in disciplining students, which instantly introduced the possibility of criminalizing childrens' normal developmental behavior and created a pipeline to Riker's Island. The trend migrated out to Long Island, and exists today in the form of SRO's (School Resource Officers), who are either directly linked to County or Town Police Departments, or are employed by private security firms. This has created a disparity in suspension rates among more economically

[1] Police Department, "Police Reform," County of Nassau, NY, 2021, p. 33

disadvantaged students, creating a Long Island school-to-prison-deportation—pipeline (see data below).

4. The Columbine mass school shooting in 1999, Sandy Hook elementary School in 2012, and Marjorie Stoneman Douglas High School shooting in 2018, resulted in a requirement by Governor Cuomo for every school to submit School Safety Plans. This created a perfect opportunity to play on parent fears, and further position the Police in spaces where they are able to collect intelligence under the guise of 'working with schools and communities' to keep people safe.

In the newly proposed Police Reform document, Police Commissioner Ryder proudly shares a number of youth initiatives currently taking place in Nassau County, designed to improve relationships between police and communities, and to increase trust by the youth of Nassau County. They include:

- The Law Enforcement Explorers Program to encourage positive character traits, career development, leadership and life skills.
- Too Good for Drugs Program in schools
- "The NCPD Takes Down Drugs" events, pairing sports and athletics with drug awareness and prevention programs
- Youth Police Initiative (YPI), designed to build trust between the NCPD and at-risk-youth who may have a negative perception of police
- The Nassau County Police Activity League (PAL), whose purpose is to operate youth clubs and provide team sports, crafts and educational and other programs for all boys and girls in Nassau County
- Citizens Police Academy (CPA), to reduce crime through education and to educate the role police officers serve within the community, and to share police policies and tactics.
- Police Youth Academy (PYA), an eight hour course geared towards at-risk high school students. It seeks to stop gang recruitment in high-risk communities, and is meant to foster enhanced communication and relationships through training and education. The course is also meant to assist the NCPD with diversity in its recruitment efforts.[2]

While the intention and even effect of these programs may be sincere, and youth and officer alike have gained insight and benefit toward more understanding, **until the Nassau County Police Department starts collecting and sharing data about its link to federal law enforcement agencies, it's gang prevention law enforcement tactics, it's link to and information sharing parameters with Nassau County Schools, the extent to which SRO's are connected to the police department in the schools, and the lawfully required MOU's with schools – the intentions of bringing youth into their confidences through these programs will not be fully trusted**, especially in light of their dominantly intelligence-driven policing model, POP.

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[2] Police Department, "Police Reform," County of Nassau, NY, 2021, p. 34-35

In fact, contained within the newly released Police Reform proposal, in the description of POP, it states, "The NCPD Homeland Security Unit and POP officers work closely with all fifty-six (56) school districts, particularly involving matters of student discipline. This partnership builds police and school relationships while bringing any conflicts to successful resolutions."[3]

This raises the question as to the nature of the position referred to as "The NCPD Homeland Security Unit," which confusingly conflates the name of a county agency with a federal level agency associated with ICE. The existence of this position alone raises fair questions as to the extent to which the federal government is involved with local police activities and in what spaces.

SROs and Nassau County

The Police Commissioner in Nassau County has repeatedly stated that the department can't afford an SRO program. We assume this means they can't afford to put Nassau County Police Officers in all Nassau County Schools. However, they do not release information concerning schools where NCPD officers are working as SRO's. SRO's can also be privately hired from NYS certified security firms, and can be retired police officers. But this does not mean they don't work directly with school officials and the NCPD.

As stated above in the Suffolk County section of SRO's, "A School Resource Officer is a sworn law enforcement officer responsible for safety and crime prevention in schools. SRO's are similar to regular police officers, in that they have the ability to make arrests, respond to calls for service, and document incidents that occur within their jurisdiction. An SRO's jurisdiction is a school, but the SRO's primary responsibility is law enforcement.[4]

According to the American Civil Liberties Union, "increased police presence in schools has caused a dramatic increase in contact with law enforcement, an expansion in the types of roles police play in schools, an increase in student referrals to police, an increase in student arrests and accountability problem stemming from student-police contact. The presence of permanent school police officers shifts school's focus from learning to supporting students to over-disciplining and criminalizing them. Students are removed from classes, subjected to physical restraint, interrogated, and their rights to education, due process and equal treatment have been violated.[5]

Because the Police Department is not required to disclose information about which schools have SRO's directly tied to the NCPD, the public does not know. But, according to advocates and educators, the Westbury, Hempstead, Uniondale and Roosevelt school districts may have direct ties to NCPD, and the Freeport school district may have direct ties to the Freeport police department. We also know, from data collected by the New York State Education Department, that students of color are disproportionately suspended, which, when combined with the presence of police and the possibility of criminalizing childrens' normal behavior, feeds the school-to-prison-deportation pipeline. (See the following chart)

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[3] Police Department, County of Nassau, NY, Police Reform, 2021, p. 37

[4] Coshandra Dillard, "The School to Deportation Pipeline," *Teaching Tolerance Magazine*, Iss. 60, Learning For Justice Fall, 2018, https://www.tolerance.org/magazine/fall-2018/the-school-to-deportation-pipeline

[5] Amir Whitaker, et al., "Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students," American Civil Liberties Union, accessed February 17, 2021, https://www.aclu.org/report/cops-and-no-counselors

School Comparisons: Suspensions

(percentage of students suspended for at least a full day out of school)

School	Suspension %	Black Students	Latino Students	White Students	Asian/Asian Pacific islander	English Language Learners	Economic Disadvantage
Great Neck South H.S.	0%	1%	8%	30%	59%	5%	22%
Jericho H.S.	1%	2%	3%	38%	56%	5%	16%
Freeport H.S.	12%	26%	67%	5%	16%	18%	65%
Hempstead H.S.	8%	22%	76%	1%	1%	42%	62%
Uniondale H.S.	12%	41%	56%	7%	1%	17%	74%
Roosevelt H.S.	12%	41%	56%	1%	1%	17%	74%

not showing all categories of demographics such as multi-racial explains calculation discrepancies based on 100% baseline
https://data.nysed.gov/

In 2019, New York State adopted a new requirement for school districts to reduce and regulate the role of police in schools. The new law requires that every school district with law enforcement, School Resource Officers or even security guards, to adopt a written Memorandum of Understanding (MOU) that clearly defines the role of police and keeps them out of disciplinary matters.

The Nassau County Police should adopt model MOU's that satisfy the law's requirements while protecting and promoting the students' rights and contribute to a supportive school climate. The New York Civil Liberties Union has created a model policy that should be adopted.[6]

[6] Sample Memorandum of Understanding: https://www.nyclu.org/sites/default/files/field_documents/mou_recommendations_for_schools_and_police_0.pdf

Specific Proposals

School Discipline Belongs in the Hand of School Leaders

School discipline is the responsibility of the administrators and staff in any school building. All staff are required to implement school discipline policies and are answerable to the school administration. SROs are sworn law enforcement officers responsible for crime prevention. They are accountable to their superior officers and not school administrators. Student rights are violated when in the primary or secondary school setting, a minor child is compelled to speak with a law enforcement without the prior express consent of their custodial parent(s) and or the benefit of counsel.

Nassau County Police Department Should Play No Role in School Discipline

Nassau County Police Department must end any presence it has in schools, and limit the role of its officers to responding to calls for service according to the School's Safety Plan, we recommend Nassau County Police Dept. develop a model MOU for any officers currently in schools, like the NYCLU's Model MOU, to create guidelines for unexpected situations, at least until all SROs are removed.

Nassau County Police Department Should Collect, Analyze and Publicly Disclose Data Regarding Police Activity in Schools

Reporting of enforcement activities involving children in school must be transparent and comprehensive. The public is currently receiving no information.

We recommend that the Nassau County Police Department collect/analyze/publish the following data involving SROs in schools up until the date it formally ends any presence in the schools, and continue to collect comprehensive data even after it ends that presence:

- Arrests should be reported by school facility, by charge, by race/ethnicity, by gender, by age, by type of officer involved (NCPD SRO, Precinct SRO, Countywide SRO, precinct officer/detective/unit).
- How many warrantless searches did law enforcement conduct of students' persons, prior to or without arrest, on school grounds?
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- What individualized, particularized elements were evident that reached the threshold that compelled the warrantless search of the minor child? How many of those searches resulted in arrest of the student(s)? How many of those searches did not result in the arrest of the student(s)?

- What, if any, contraband was seized from each student searched?

- Full transparency and data on the activities of the NCPD Homeland Security position

Nassau County Should *Actively* Support the New York For All Act

The New York for All Act (S.3076/A.2328) broadly prohibits state and local officers from enforcing federal immigration laws, funneling people into ICE custody, and sharing sensitive information with ICE. It prohibits ICE from entering non-public areas of state and local property without a judicial warrant. It also ensures that people in custody are given notice of their rights before being interviewed by ICE and starts the process of limiting ICE access to state information databases.

Nassau County Should *Actively* Support the Solutions Not Suspensions Act

The Judge Judith S. Kaye Solutions Not Suspensions bill requires schools to use proven alternatives to suspension that correct misbehavior and keep kids in the classroom. The legislation:

- Requires school codes of conduct to include restorative approaches to discipline, to proactively foster a school community based on cooperation, communication, trust, and respect.

- Limits the use of suspensions for students in Kindergarten through 3rd grade to only the most serious behavior.

- Shortens the maximum length of suspension from 180 to 20 school days.

- Requires that students who are suspended receive academic instruction, and the opportunity to earn credit, complete assignments, and take exams.

SROs Nassau

Get cops out of schools.

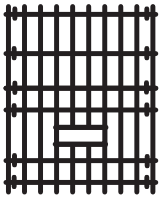
While the Nassau County Police Department **does not have a formalized SRO** (School Resource Officer) **program**, most schools have some form of a security officer, and in some districts, they are nevertheless **connected to either local department or the NCPD.**

Police or SROs do collect and share information with other law enforcement agencies.

Their primary responsibility is **law enforcement** and threaten the privacy and due process rights of students

Dicipline by SROs can trigger inequitable, non-diciplinary responses:

School-to-Prison Pipeline



School-to-Deportation Pipeline

- Police contact with students should be **eliminated.**
- **NCPD nor any other department** should play no role in school discipline. ***See above.***
- All police activity and contact with youth should require a **data collection and reporting component.**
- Nassau County should **actively support** the "New York For All Act," which prohibits immigration inforcement by local authorities.
- Police contact with students should be at the least regulated, at the most, eliminated.
- While police are being phased out, Model MOUs (required by law) should be publicly posted on police & school websites, **prohibiting security officers from disciplining children.**

The Commissioner states, in his new police reform proposal, "The NCPD Homeland Security Unit and Problem-Oriented-Policing officers work closely with all fifty-six (56) school districts, particularly **involving matters of student discipline.**" (p. 37)

Language Access

Section Summary

The Problem

Long Island has become home to an increasingly diverse population over the past 10-15 years, including immigrants from a variety of different countries. While many are proficient in English, there are over ¼ million Long Islanders who are considered "Limited English Proficient (LEP)," meaning that they speak, read, write or understand English "less than very well."

It is of critical importance that all members of our community receive timely and respectful access to all programs and services in a language they understand. Language access increases public safety. Failure to provide language access places lives in danger, particularly when an individual needs help during a crime, a medical emergency, a disaster,a domestic violence incident or some other crisis. Police are often the first to respond to these situations.

Individuals who are Limited English Proficient (LEP) may also face discrimination and victimization in their daily lives based on the language they speak, their race, ethnicity, nationality or immigration status. Many Long Island immigrants have, in fact, been the victims of hate crimes and the target of xenophobic attacks ovre the years.

In situations involving law enforcement, communication barriers, compounded by racial, ethnic and class biases, may result in unjust criminal consequences for immigrants, and even deportation and family separation. When language access is not provided, communities of color suffer the consequences.

Language access is critical to establishing trust between law enforcement and the diverse communities they are supposed to serve. As our counties devise plans to address bias in policing, language access must be a fundamental part of this equation.

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[1] Morgan-Trostle, Juliana, Kexin Zheng, and Carl Lipscombe. "The State of Black Immigrants. Black Alliance for Just Immigration and NYU School of Law Immigrant Rights Clinic." www.immigrationresearch.org, September, 2016. http://www.stateofblackimmigrants.com/assets/sobi-fullreport-jan22.pdf

Demographics

According to the 2020 U.S. Census, immigrants make up about 15.6% of Suffolk's population. Of these, 22.7% of Suffolk County residents speak a language other than English at home. While this does not necessarily indicate that they lack English proficiency, many may be more comfortable expressing themselves in their native language, particularly in times of crisis. Other than English, the predominant languages in Suffolk County are Spanish, Haitian Creole, Portuguese, Chinese (primarily Mandarin and Cantonese), Polish and Italian.

In Nassau County, 22.4% of the population is foreugn born and 29.3% speak a language other than English at home. The predominant languages, other than English , are Spanish, Mandarin, Hatian Creole, Farsi, Korean and Italian. In total, approximately 11% of Long Islanders are considered to be "Limited English Proficient" (or ELL). (Footnote: In the education field, the term English Language Learners or Multilingual Learners is preferred, focusing on the student's strengths, rather than their deficits.). The vast majority of those needing language assistance in both counties are Spanish speaking.

It is both an ethical and a legal imperative for public agencies and programs to provide language access.

Relevant Federal Law

Language access is required by federal law, including Title VI of the Civil Rights Act of 1964, which states that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Pursuant to Lau v. Nichols (1974), failure to provide language access has been deemed to be a form of national origin discrimination. Federal Executive Order 13166, issued in 2000, further clarified that all persons are required to be provided with meaningful access to programs and services by federally funded agencies, particularly when there is frequent interaction with that program and the nature and importance of the program is of importance to people's lives. Meaningful access ensures the provision of accurate and effective communication, and equal access to programs and services, without undue delay. This includes numerous programs and agencies, including law enforcement.

Language Access: Suffolk

Suffolk County Executive Order and Language Access Law

In 2012, Suffolk County Executive Steve Bellone signed Executive Order 10, which required all county agencies with frequent public contact to provide meaningful access to Limited English Proficient community members in all programs and services, to translate vital documents into the six most frequently spoken languages in the countyand to provide interpretation (i.e. spoken communication) in any language needed by the public, whether through the use of bilingual staff, in-house interpreters, or professional language providers. Executive Order 10-2012 also prohibited inquiring into the individual/s immigration status because of their need for language assistance. The Suffolk County Police Department was one of several departments included in this order.

In 2018, Suffolk County passed Resolution 1033, which specified that elected offices were also required to comply with the aforementioned language access requirements, including the Sheriff, District Attorney, Comptroller, Treasurer, Legislature, and County Clerk. The language access law was codified effective January 1, 2019. An additional resolution was passed in late 2019 specifying that county correctional facilities were to be included in the designated "programs "requiring language access.

Suffolk County History and the Department of Justice Agreement

In 2008, Marcelo Lucero, an Ecuadorean immigrant, was tragically killed in Patchogue by a group of teenagers who targeted him because he was Latino. Following his murder, many other Latino immigrant day laborers came forward to share their stories. They expressed that they had been robbed and beaten by this same group of attackers who made it a sport of what they called "beaner hopping," but they had been unable to report the crime to police due to language barriers. Some said they were not taken seriously by the police or were afraid to contact them, concerned about possible immigration consequences. This was during a time period of intense anti-immigrant vitriol, much of it emanating from then–County Executive Steve Levy and his supporters. Levy characterized Lucero's murder as "a one day story."

Soon after, the Southern Poverty Law Center issued a report, **"Climate of Fear,"** detailing the systemic racism to which many Latino immigrants were subjected in Suffolk County.[2]

An investigation into the Suffolk County Police Department (SCPD)was subsequently launched by the U.S. Department of Justice (DOJ), which determined that the SCPD was engaging in biased policing, and needed to make substantial reforms in order to better serve the Latino community. The DOJ issued a technical assistance letter to the Department in 2011 outlining suggested reforms. When compliance not sufficient, the SCPD was required to enter into a settlement agreement with Department of Justice in January 2014, outlining numerous steps to be taken to reform their policies and practices, many of

[2] Southern Poverty Law Center. "Climate of Fear: Latino Immigrants in Suffolk County New York." https://www.splcenter.org/, last modified September 1, 2009. https://www.splcenter.org/20090831/climate-fear-latino-immigrants-suffolk-county-ny

which included language access.[3]

The Settlement Agreement contains specific provisions designed to ensure that SCPD delivers police services that are "equitable, respectful, and free of unlawful bias, in a manner that promotes broad community engagement and confidence in the Department." The Agreement requires that "members of the public receive equal protection of the law, without bias based on race, color, ethnicity, national origin, religion, or sexual orientation, and in accordance with the rights, privileges, and immunities secured or protected by the Constitution and laws of the United States."

The DOJ required the SCPD to "develop a robust language access plan" to ensure effective communication between the SCPD personnel and the public. The DOJ notes that, "such communication is vital for ensuring that LEP crime victims are able to receive appropriate police services, protecting the civil and constitutional rights of LEP individuals who are arrested or otherwise charged with criminal conduct, and, more broadly, developing a closer relationship with LEP communities and thereby strengthening SCPD's ability to address and prevent crime in those communities." This plan was to be translated into the 6 most frequently encountered languages, posted on the SCPD website, and distributed to community organizations.

The 2014 agreement mandated other actions including the following: translation of vital documents;translation of civilian complaints;availability of translated compliment and complaint forms, development of proficiency standards for all IAB members designated as Spanish speaking;recording and periodic auditing of phone calls; tracking of interpreter usage; improved website accessibility; incentives for bilingual employees; providing a training of at least four hours to all employees about cultural diversity and how to work with people needing language assistance.

The DOJ also required that SCPD engage in quarterly meetings with the Latino community and advocates serving the community. Due to feedback received from the community, the DOJ has continued its involvement beyond the originally projected 3-year monitoring period. To date, the DOJ has reported in their compliance reports that, despite improvements, there continue to be significant discrepancies between SCPD's formal policies and their daily practices.

As a result of the settlement agreement, the SCPD has made many improvements in the area of language access, including, but not limited to:

- Comprehensive Language Access Policy, translated into 6 languages and posted on website
- 4-Hour Language Access Training for Department; repeated every 2 years
- Increased technology to access interpreters in field, including Language Line video for ASL interpretation for Deaf community members
- Translation of Vital Documents
- Outreach Materials in Several Languages
- Translated signage in precincts
- "I Speak" Cards to identify language needed
- Department Authorized Interpreters
- Usage of I-Pads in the field for interpreter access
- Auditing of LIMA (911) calls

[3] Department of Justice. "United States Agrees to Comprehensive Settlement with Suffolk County Police Department to Resolve Investigation of Discriminatory Policing Against Latinos." https://www.justice.gov/. Last modified December 3, 2013. https://www.justice.gov/opa/pr/united-states-agrees-comprehensive-settlement-suffolk-county-police-department-resolve.

While we acknowledge the above improvements, successful and consistent implementation of language access is unfortunately, still lacking. **Numerous community members still indicate that they are unable to get assistance from the SCPD in their language**, that they face undue delays or denials of assistance, that officers defer to the person who is more proficient in English when responding to a call, or that their children are improperly used as interpreters. The DOJ's initial technical assistance letter was issued in 2011. Ten years later, the continuation of these problems, which are indications of biased policing, are simply unacceptable.

Over the years, advocates from theLong Island Language Advocates Coalition (LILAC) have repeatedly contacted the SCPD and conducted testing by phone to determine whether or not they were providing language access to non-English speaking callers. In a 2017-2108 LILAC study, it was found that 48.5% of the callers were unable to receive language assistance, Many officers did not know how to connect the call to an interpreter and ended up disconnecting the caller. The SCPD subsequently conducted its own internal audits and found that a significant number of callers who requested language assistance did not receive it. In a 2019 Language Assistance Report the SCPD language access coordinates states:

> "'Quality of Service Audits' are conducted by Spanish-speaking Internal Affairs investigators, who ask LEP 911 callers a series of questions regarding the service they received from the officer who responded. In 2019 IAB investigators spoke with 117 LEP callers, representing approximately 1.5% of all Lima calls for the year. The majority of those asked indicated that they could communicate with the officer who responded to their 911 call. Significantly, about 48% stated that they could not.Of those who could not communicate, only about 15% said they received language assistance from the officer. The remainder, 40 individuals, or about 35% of all surveyed, stated they utilized some other person at the scene."

In many cases, officers, including 911 dispatchers, determined that the individual "spoke enough English" and did not need language assistance. We acknowledge the value of conducting these internal audits. However, if there officers and civilian departmental personnel are not held accountable for their actions, then there will be no improvement, and community members will continue to suffer the consequences. The responding officer or dispatcher should not be provided with the option to determine that the person "speaks enough English," particularly when the individual requests assistance in their native language. It is imperative that all individuals be able to fully communicate with the police and vice versa,particularly when there is a crisis. Whenever possible, the responding officer should be proficient in the language of the parties involved. When that is not feasable, the responding officer must immediately enlist the assistance of a department authorized interpreter or a a professional contracted interpreter. Failure to do so may have dire consequences.

Sowing Mistrust

In addition to all the stories which came forth following the murder of Marcelo Lucero, Latino immigrants and their families have been repeatedly victimized by the SCPD. Among these were the repeated traffic stops and robberies of Latino motorists by SCPD Sgt, Scott Greene in 2011 and 2012. In 2015, Latino Justice/PRLDEF filed a class action lawsuit in federal court, accusing the SCPD of engaging in a widespread pattern of racial discrimination, harassment and cover-ups even while the U.S. Department of Justice was investigating it for bias, the complaint said.

In 2018, Propublica published an article,"The Disappeared." which detailed the cases of several Latino families whose children went missing in Suffolk County. When the parents went to file reports about their missing children, many said they were not taken seriously by the police and the children were listed as runaways, rather than missing children, thus not escalating the case to the most urgent level. Many of these children were later found dead.[4]

The article also detailed the experience of a 15-year old girl who went missing and was later found near the railroad tracks alive, but disheveled and disoriented. When she and her father went to the precinct to speak with a detective,the detective accused the already traumatized teenager of lying and repeatedly ignored the Spanish speaking father's requests of an interpreter. This exposé resulted in an inquiry by Suffolk County legislators who questioned SCPD officials as to why they had used children as interpreters, why written policies on the treatment of victims had been ignored, what should happen when teenagers go missing, and why bilingual officers had refused to use Spanish with Spanish-speakers trying to report crimes. They also questioned a lieutenant about the use of the term "misdemeanor murder," a phrase some Suffolk County detectives had used to minimize killings of young male Latinos.

Consequences of Not Providing Language Access

There are multiple negative consequences of the failure to provide language access:

1. **Difficulties in obtaining Orders of Protection and/or immigration relief.** Community members and advocates, many of them from Suffolk domestic violence agencies. have repeatedly voiced concerns that police reports are often inaccurate, incomplete or missing vital information. This has lead to difficulties in obtaining Orders of Protection and/or immigration relief , such as U-Visas, which may be granted by U.S. Citizenship and Immigration Services to immigrant crime victims or witnesses.

2. **Lives are placed in danger.** In 2014, Deisy Garcia and her two young children were murdered by her husband after police in Jamaica, Queens failed to translate her written pleas for help.[5] Many Latina women in Suffolk County have also reported that they had difficulty getting help from the police, rither bring told to return to the precinct when someone was there who spoke their language, being denied an interpreter because they "spoke enough English" or

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[4] Hannah Dreier, "The Disappeared." *ProPublica*, https://www.propublica.org/, September 20, 2018, https://features.propublica.org/ms13-miguel/the-disappeared/

[5] Sánchez Díez, Maria, "Voiceless," *NYCityNewsServices*, *Univision Noticias*, nycitynewsservice.com. http://voiceless.nycitynewsservice.com/

being told that their children could interpret, even though SCPD policy explicitly prohibits this.

3. **Inaccurately translated reports or inaccurately interpreted investigations** may lead to criminal consequences for innocent residents. Individuals may also be at greater risk of being arrested, issued summonses, and facing immigration consequences when they are unable to defend themselves in English and are not provided with language assistance.

4. **Victims are retraumatized when they are not treated appropriately,** leading to feelings of hopelessness and mistrust. Their children are often inappropriately placed in the middle of these situations as interpreters between their parents and the police. This may be extremely uncomfortable and even traumatizing for them. children also do not possess the necessary language or interpretation skills to ensure accuracy.

   One victim of domestic violence in Suffolk County recently reported that she called the police three times because her husband was abusing her. In each case, her children were used as interpreters and the police informed her that they could not remove the abuser from the home.

5. **Voices go unheard, due process is denied, and crimes go unreported** when officers defer to the individual who speaks more English or decides the individual "speaks enough English" and does not need language assistance.[6]

6. When language access is not provided by law enforcement, **trust is eroded between immigrant communities and the police**. This is counterproductive to everyone's safety, as immigrants will be less likely to report a crime or to cooperate with police who are investigating crimes.Many immigrants also fear that the police are cooperating with immigration enforcement.

7. **Immigrants are subject to greater exploitation** by unscrupulous landlords, people posing as immigration attorneys and a variety of con artists. Often they are threatened and feel more vulnerable due to their immigration status. Those who are not proficient in English often face discrimination and violations of their civil rights. When they are unable to report these crimes to the police, neither they nor many others who are being similarly exploited receive adequate protection, and these crimes continue unpunished.

8. **Those who are not proficient in English often face discrimination** and/or a violation of their civil rights. The police department's response to hate crimes may be fully inadequate. In all of these situations, victims dealing with poor or missing language access find themselves retraumatized.

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[6] Julie Turkewitz, "Language Barrier Continues to Thwart Victims of Crimes." *New York Times*, May 11, 2014, https://www.nytimes.com/2014/05/12/nyregion/language-barrier-continues-to-thwart-victims-of-crimes.html

Recommendations

The following policies must be adopted by the SCPD. Many of these recommendations overlap with the DOJ's recommendations in their 8th compliance report. All policies must be implemented and enforced, with consequences for repeated failures to comply with the policies.

1. Complainants must always be provided with an incident report, regardless of their language.

2. SCPD needs to issue a directive requiring incident reports be read back, from top to bottom, in the individual's preferred language. This is essential to ensure accuracy, to assist in securing Orders of Protection, U-visa, T-visas and to prevent improper convictions. Often many facts are omitted or not properly recorded.

3. If an individual requests an interpreter, they must be provided with one. (A request is not necessary in order for such assistance to be provided.) It should not be up to the officer to determine that a person "speaks enough English." This includes assisting non-English speaking parents/guardians of minors.

4. Officers must not defer to the person who speaks better English. This other party could be the abuser, an abusive landlord, etc. All parties deserve to be heard.

5. Children must not be used as interpreters. This policy must be reinforced regularly.

6. All departmental personnel and units must consistently provide language access.

7. There must be greater accountability when officers/personnel fail to meet their language assistance responsibilities. Few IAB complaints are considered substantiated and the testimony of victims and their families and friends is often not considered credible. There are no clear protocols other than " retraining," no matter how serious the consequences.

8. Complaints must be processed and investigated in a timely manner. LEP complainants must be kept apprised of the status of the complaint in their language at frequent intervals. They also must be provided with a contact person who speaks their language.

   (A Spanish speaking Latina victim who filed a complaint regarding police brutality against her 14-year old son did not receive any disposition of the complaint until 18 months later, and that was due to the repeated intervention of an advocate. Even then, and with witnesses, the complaint was considered unfounded.)

9. Include language indicator in case record (computer and hard copy) to ensure all are aware of the person's language needs, no matter who they are dealing within the department.

10. Publicly share data regarding frequency of Language Line and other interpreter usage by precinct and department.

11. Continue audits of LIMA calls and share results.

12. Provide consistent quality interpretation at all community meetings.

13. Station bilingual Spanish-speaking personnel at front desks of precincts.

14. Complainants must not be turned away and told to come back when there is someone at the precinct who speaks their language.

15. Crime victims must not be revictimized when interacting with the police. Officers and civilian staff need additional training on how to properly interact with people who have experienced trauma.

16. Safety and confidentiality of complainants must be protected. Individuals who come to the precinct to make a complaint must not be made to share their story loudly and publicly in front of others who are in the waiting area. This has become worse during COVID.

17. All incidents involving missing children must be assigned equal importance, regardless of the minor's race, community, language or age.

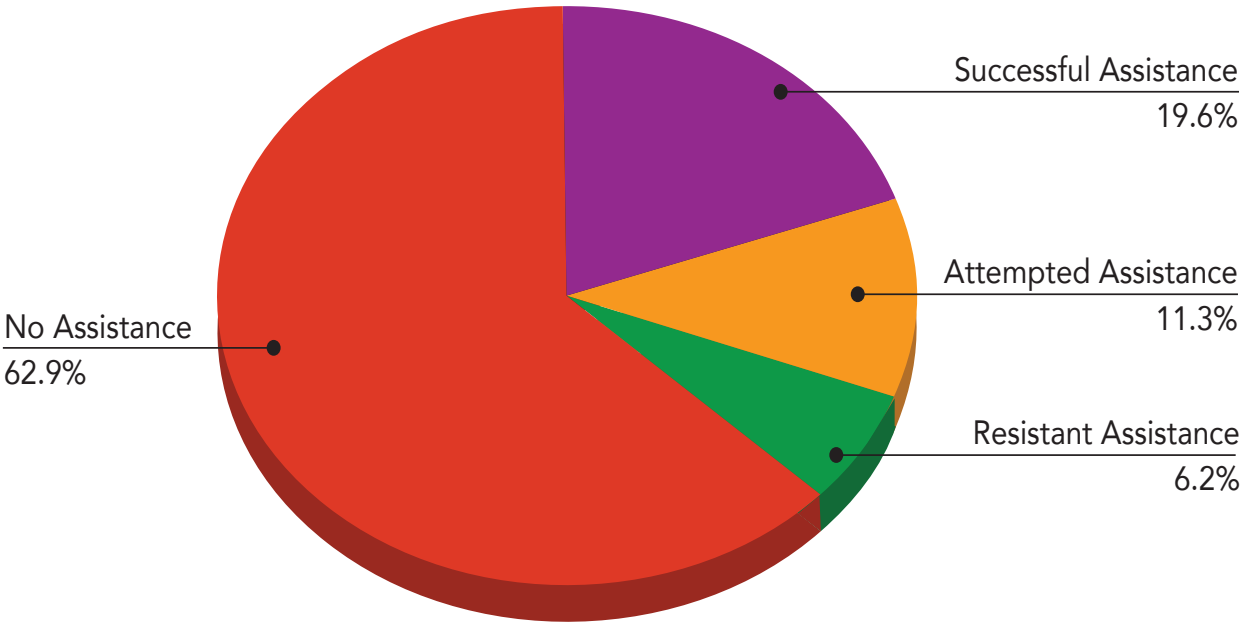
Language access is fundamental to building trust, ensuring access to justice and addressing disparate treatment toward immigrants and communities of color.

Language Access: Suffolk
Appendix A

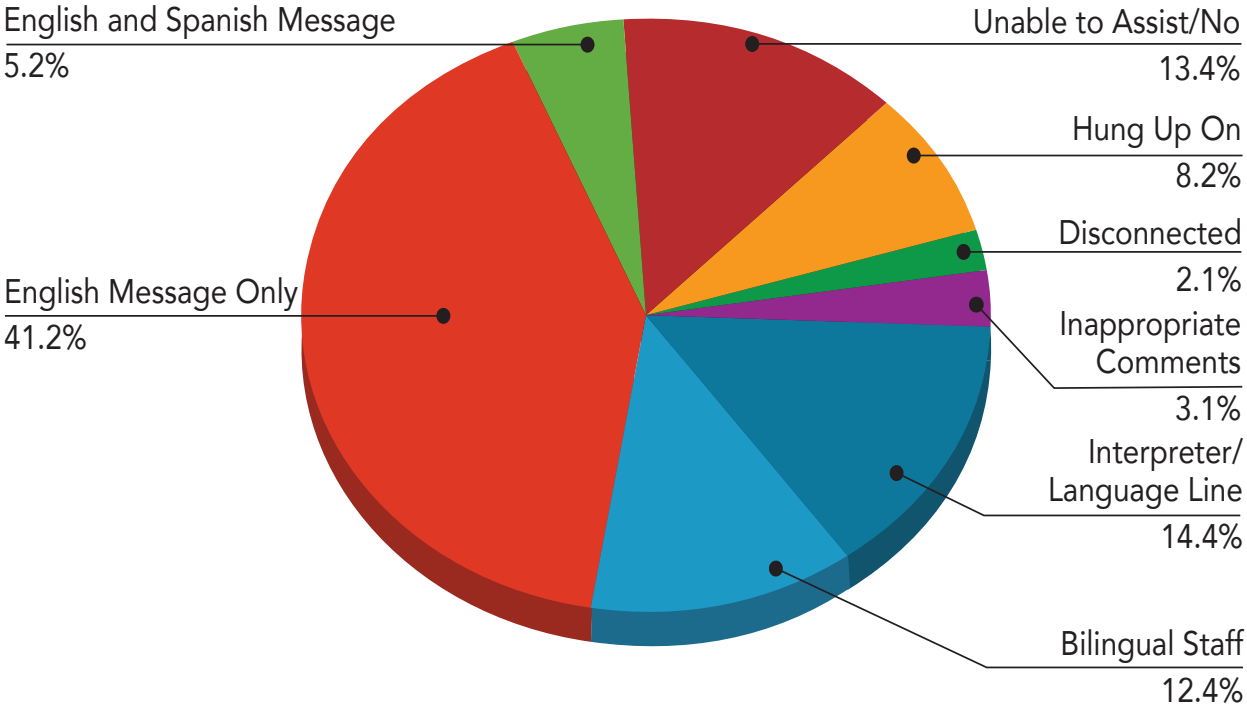
Suffolk County: Overall Level of Assistance	Number of Calls
Successful Assistance	19
Attempted Assistance	11
Resistant Assistance	6
No Assistance	61

Suffolk County: Overall Call Response	Number of Calls
Unable to Assist/No Assistance	13
Hung Up On	8
Disconnected	2
Inappropriate Comments	3
Interpreter/Language Line	14
Bilingual Staff	12
English Message Only	40
English and Spanish Message	5

Suffolk County: Overall
Level of Assistance



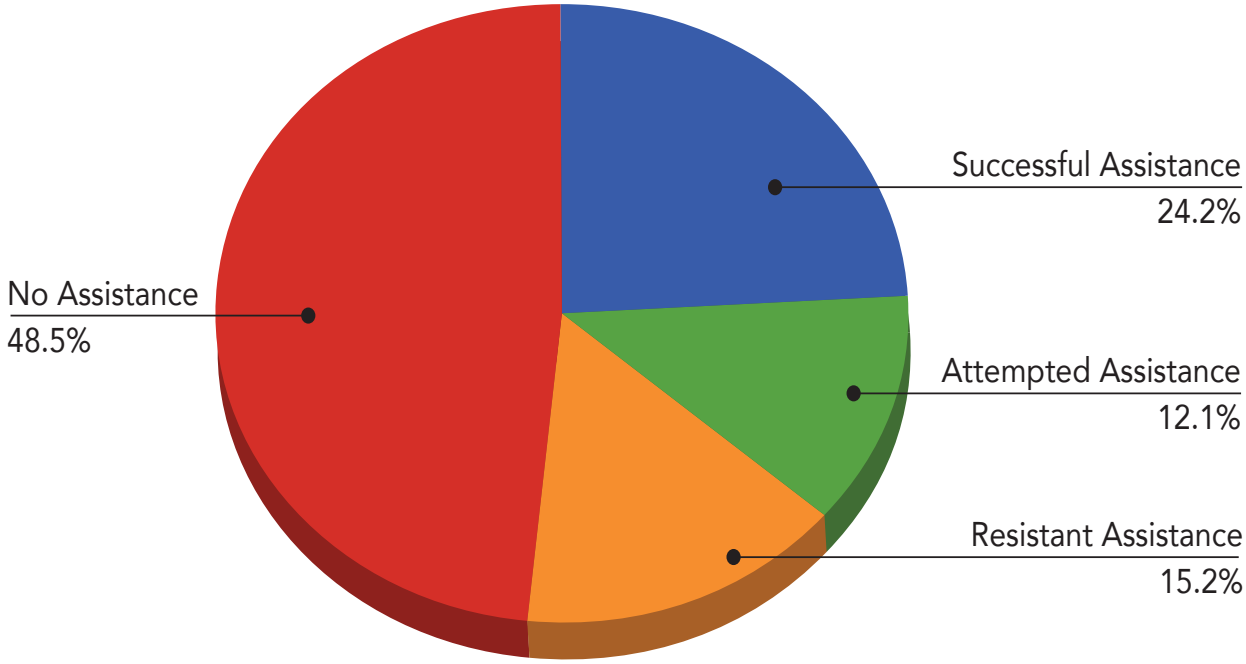
Suffolk County: Overall
Call Response



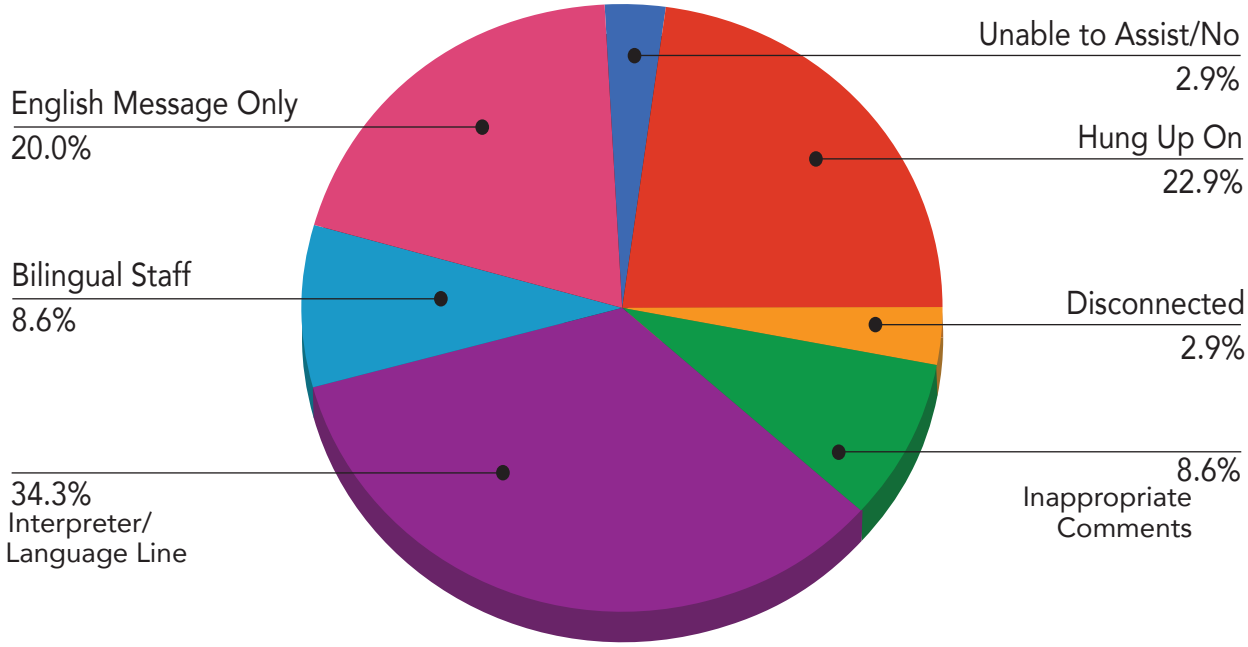
Suffolk County Police Department Level of Assistance	Number of Calls
Successful Assistance	8
Attempted Assistance	4
Resistant Assistance	5
No Assistance	16

Suffolk County Police Department Call Response	Number of Calls
Unable to Assist/No Assistance	1
Hung Up On	8
Disconnected	1
Inappropriate Comments	3
Interpreter/Language Line	12
Bilingual Staff	3
English Message Only	7
English and Spanish Message	0

Suffolk County Police Department
Level of Assistance



Suffolk County Police Department
Call Response



Language Access: Nassau

Relevant Orders & Directives

In January 2013, New York State issued a letter to memorialize an agreement in which the NCPD was to take numerous steps to improve their services to Limited English Proficient community members,[1] including:

1. Ensuring officers and civilian employees provide timely and meaningful access to all LEP community members who need to communicate with the department in all encounters including, but not limited to, traffic stops, taking complaints, interviewing witnesses, victims, and subjects, making public service announcements and safety alerts.

2. Providing training and distributing policies to all department personnel on how to effectively communicate with LEP community members.

3. Recruiting, hiring, and training bilingual officers and testing their proficiency level.

4. Translating vital documents.

5. Making English and Spanish complaint forms available in all NCPD buildings and on the website and providing written disposition of a complaint in the individual's language.

6. Periodically meeting with the AG's Office to review data collection regarding the provision of language service and trainings.

In August 2013, Nassau County Executive Ed Mangano issued Executive Order 67 and Executive Order 72, which requires county agencies, including the police department, to translate vital documents into the six most frequently spoken languages in the county and to provide interpretation to the public in any language needed. Like Suffolk his also includes a provision that a request for language assistance would not result in an inquiry into immigration status.

As of this date, January 2021, the Nassau County Police Department has failed to comply either with the NY State Attorney General's technical assistance letter or with Nassau County Executive Orders 67 and 72.

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[1] New York State Office of the Attorney General, "A.G. Schneiderman Announces Landmark Agreement With Nassau County Police Department To Strengthen Language Access Services,"New York State, Jan 11, 2013, https://ag.ny.gov/press-release/2013/ag-schneiderman-announces-landmark-agreement-nassau-county-police-department

Perhaps even more importantly, the NCPD has failed to meet its responsibilities under federal law—Title VI of the Civil Rights Act of 1964 and Executive Order 13166. Despite repeatedly being advised of the harm this has caused community members, the NCPD has continued to engage in a persistent and systemic pattern of discrimination against Limited English Proficient community members, thus also engaging in systemic discrimination against people of color as well as communities of lower economic status.

The harm caused is irreparable. When language access is not provided, people's lives are placed in danger, either because they cannot get adequate police protection or a timely response to a medical or other emergency, or because, as the result of an arrest, they may face criminal consequences and deportation. Failure to provide language access also contributes to mistrust of law enforcement by immigrants and their families and is a continuing reminder that their lives are not valued and that they simply cannot count on the police when they need them.[2]

Local Advocacy Efforts

Testing calls have been repeatedly made to NCPD precincts and headquarters over the years by advocates seeking to measure the NCPD's language access capabilities as well as the County's commitment to implementing its own language access executive orders. Results reported by the Long Island Language Advocates Coalition (LILAC) in an August 2015 report, "Language Access Denied," indicated that Spanish and Korean callers to the police department were unable to receive any assistance at all.[3] One officer referred to a Spanish speaking caller as "mami" and asked why she didn't speak any English.

The department conducted its own internal audits and also found deficiencies. For a brief time, while a higher-ranking lieutenant was in charge of language access, there appeared to be a greater commitment to remedying these problems. However, that did not last long.

In 2017, another round of calls was conducted by LILAC, and 75% of the callers to the NCPD were unable to receive assistance in their language. These results were brought to the attention of Nassau County Executive Laura Curran, who acknowledged in a recent public meeting that "we're not where we should be on language access."

Following additional testing in 2019, LILAC advocates met with NCPD Commissioner Ryder and his staff. Additional testing had been done which revealed that 17 out of 20 callers received no language assistance. When test results were brought to his attention, including a lack of translated signage at the precincts informing people of their right to an interpreter, Commissioner Ryder became extremely hostile and threw the advocates out of the meeting. A follow-up letter was sent to Commissioner Ryder and Sergeant Sabrina Gregg, the language access coordinator, as well as others who had been present at the meeting. No response was received (see Appendix A Letter to Commissioner Ryder).

In 2020, advocates again conducted another round of Spanish calls. Those callers who were connected with a Spanish speaking officer were able to receive some information. However, several others were disconnected or hung up on, or were frequently told to call 911. Many officers did not seem to know how to access interpreter services. Had this been an actual emergency, these callers' lives could

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[2] Shah, Susan, Insha Rahman, and Anita Kashu. "Overcoming Language Barriers: Solutions for Law Enforcement." Vera Institute. Last modified , 2007. http://www.vera.org/overcomelangbarriers

[3] "Language Access Denied: Ed Mangano's Broken Promise to Nassau County." Empire Justice. Last modified , 2017. https://empirejustice.org/wp-content/uploads/2017/12/language-access-denied.pdf

have been in peril. (see Appendix B)

Failure to provide language access may reflect a lack of proper training, a culture which is resistant to change, as well as bias within the department. For example, in July 2020, a Latina woman living in Nassau County contacted the police due to harassment by her landlord. When the police officer responded, the woman asked for a "translator" since she only spoke Spanish. The responding officer told her. "No, this is the United States of America. We speak English here." The woman filed a complaint with the NCPD and still has not received a response.

In December 2020, Commissioner Ryder released a report with "recommendations" for police reform which allegedly came from the task force which had been convened to come up with recommendations. However, there had been no prior knowledge or consensus around this by task force members, and many resigned in disgust. Upon reviewing the report, we noted several glaring problems, which are noted below:

Language Access Plan: The Language Access Plan must be rewritten. It is missing crucial information needed to instruct officers on how to properly assist the public and to ensure internal accountabilityThere are no recommendations in the plan, other than to introduce a text to 911 program. (See below).

> "The NCPD ensures the members of our community with limited English proficiency have equal access to all services provided by the Department. In 2019, the Nassau County Police Department implemented the Language Access Plan. (This plan was actually written up hastily prior to a meeting with language advocates.) "In a continued effort to enhance communication with our community, all NCPD patrol cars were issued iPhones to create easy access to the Language Line. The Language Line Application gives the citizen an opportunity to video conference with an interpreter to ensure both parties can property articulate themselves and understand each other. From January through October 2020, patrol made eight-hundred sixty seven (867) calls to Language Line to assist with communication. The top three languages utilized were Spanish, Mandarin and Creole. The Language Line provides a sign language option for residents who are hard of hearing. It is Nassau Police Department Policy not to inquire about the immigration status of crime victims, crime witnesses and anyone who calls or approaches officers to seek assistance. The NCPD is also in the process of introducing a text-to-911 program."

Issues: "From January through October 2020, patrol made eight-hundred sixty-seven (867) calls to Language Line to assist with communication." These numbers seem to be very low.

Recommendations

1. NCPD needs to provide data on its website on at least a quarterly basis including the number of hours Language Line has been utilized, in what languages and what precincts or departments provided access.
2. NCPD needs to hire/train more bilingual personnel, measure their proficiency (not through self-testing) and add department authorized interpreters.
3. The Language Access Plan must be more comprehensive, posted on agency website, translated and distributed to all personnel.
4. The NCPD shall not release information regarding a victim, witness or suspect's immigration status in any public statements.

Language Access Plan Recommendations

Section I: Include legal requirements under federal law (Title VI of Civil Rights Act of 1964; EO 13166) as well as the January 2013 agreement with NY State Attorney General.

Section II: Include Haitian Creole instead of French Creole. Indicate that these languages are for purposes of translation (written) of vital documents. However, interpretation(oral) must be in any language needed.

Enumerate the Language Access Coordinator's responsibilities in greater detail.

Section IV:

- Employees must be tested regarding language proficiency and agency must not rely on a self-attestation. Include an updated listing of bilingual personnel.

- Language ID cards: "The department will be distributing language identification cards." There is no indication as to whether this has been done and the attachment is not included in the plan.

- Signage: "Point to Your Language"; Language Access Policy and the Language Access Recommendation Form. The plan states that "posters are to be placed in all Police facilities with public access," but does not indicate whether this has been done or a timeline for doing so.

- Website: PDF's do not translate. Language Interpretation tool needs to be moved to the top of the page. Accuracy of translations must be checked, especially vital documents. Google Translate is not a reliable translation tool.

- The plan states, "The active recruitment of new hires for uniformed and civilian positions that are proficient and fluent in speaking and writing in secondary languages is another method of enhancing the department's commitment to better communication with LEP persons." There is no plan provided for achieving this. NCPD needs to diversify the department, as directed by the NYS Attorney General in 2013. We recommend that information be posted regarding the demographics of the department, and what measures are being taken to diversify and recruit people of color, women, and speakers of languages other than English.

Section V: Document Translations: All documents designated as vital documents must be listed along with their translations or a timeline for translation.

Section VII: All instances of interpreter usage need to be recorded, not only 911 calls.

Section IX: Complaints: Complaint forms must be made available in the top 6 languages and easily accessed on the website, in precincts and at other community locations. Complaint follow-up procedure needs to be more specific, with details provided regarding the investigation process, timeline to resolve and what measures are taken to keep the individual apprised of the status of their complaint, and in their language. What penalties are there for noncompliance with the officer's/employee's language access responsibilities?

Section X: This section references the use of friends, family, and children as interpreters.
We recommend stronger wording indicating that this should not be viewed as an option, except for adult family members in case of emergency. Under no circumstance should children be serving as interpreters.

Additional Recommendations

1. Procedures need to be more specifically explained regarding how officers procure language assistance at the precinct, in the field and on 911 calls.

2. More specific instructions needed regarding how to communicate with an individual when there is a language barrier.

3. Designate additional members of the department, including those up the chain of command, to have language access responsibilities and oversight. This responsibility should not rest solely on one member of the department.

4. An annual in-depth language access report must be completed and posted on the website.

5. Audit a random selection of 10% of the Language Assistance Tracking Data each quarter to ensure that:

    a. The required information is being recorded accurately and completely.
    b. The proper interpretation protocols are being followed.
    c. Temporary interpreters are not used improperly.
    d. Interpretation assets are deployed properly.
    e. Deficiencies are referred back to the Commanding Officer of the reporting member.

For a more detailed plan, see Suffolk County's policies regarding Language Access at: https://www.suffolkpd.org/Portals/59/scpd_pdfs/infoandpolicies//LAP.pdf

In addition to all the demands raised with the SCPD, the NCPD must do the following:

- Develop a comprehensive Language Access Plan, post it on website and translate into top 6 languages

- Language Access Coordinator must provide oversight and be supported and held accountable up the chain of command

- Comprehensive language access and cultural competency training mus be provided annually, with refreshers at least twice per year. Training must be developed in collaboration with professional consultants (such as VERA Institute) and make available for community feedback.

- Vital documents must be translated into the top 6 languages, posted on website and made available in precincts

- Children must not be used as interpreters

- NCPD must conduct regular internal audits to ensure language access is being provided.
- Penalties for noncompliance; not just a slap on the wrist. Must have accountability.
- Translated Signage regarding the right to an interpreter must be visible at precincts.
- Complaints regarding failure to receive language assistance must be processed within 24 hours.
- Multi-lingual outreach needed to inform the public of the right to file a complaint, with instructions. Complaint forms must be translated and distributed. They are now only provided in English on the NCPD website.
- Provide consistent and quality interpretation at community meetings.
- Website Translation must be improved and reviewed for accuracy. Move the "select language" tab to the top of the page. Share info in accessible formats for better vision accessibility.
- More Diversity in staff and training of Department authorized interpreters.
- Track Language Line Usage by Precinct, department and language and share on website at least twice per year.
- Provision of quality interpretation at all community meetings.

The NCPD must take additional steps to build trust with immigrants and to stop victimizing and further marginalizing them. This must include an end to theNCPD's practice of publicly identifying the immigration status of victims, witnesses and suspects.

Conclusion

The NCPD has taken no steps over these many years to remedy the need for language access or to comply with the law. Clearly, there is a resistance from the top down to provide language assistance and meaningful access to services, as required by law, to Nassau's 130,000 LEP community members. This is inexcusable and must be immediately and effectively addressed. Additional oversight by the Office of the New York State Attorney General is strongly recommended to ensure the NCPD complies with its language access responsibilities.

Language Access: Nassau
Appendix A

April 5, 2019

Commissioner Patrick Ryder
Nassau County Police Department
1490 Franklin Avenue
Mineola, N.Y. 11401

Dear Commissioner Ryder,

We would like to thank you and the members of your department for meeting with us last week regarding language access issues within the Nassau County Police Department. As a follow-up to our March 26th meeting, we have created a summary of some of the areas of discussion which might require better understanding moving forward. Meetings between community advocates and executive agencies should never be interpreted as an attack on any one person or program. It is a conversation about institutions, their processes and procedures, and should be professionally considered and respectfully discussed in that manner.

We'd like to emphasize that the 'testing' which LILAC does is not meant to ambush or undermine. It is the responsibility of any executive agency to comply with federal, state and county laws and to monitor the rank and file for compliance. As advocates, we voluntarily monitor various agencies for compliance because oversight of government is a necessary part of a healthy democracy.

We can all agree that the issue of language access has been problematic in many Nassau County departments for quite some time now. We therefore appreciate the efforts you have made thus far, including improving the availability of the phone application for interpretation for your officers who are in the field. We also appreciate the opportunity to contact you immediately if we find, through testing, that procedures are not being followed. We intend to take you up on that offer. However, that is a 'case by case' approach and does not address the very real possibility that systemically, there may be a problem which is preventing people with Limited English Proficiency from getting the assistance they need from the Nassau County Police Department. The good news is that systemically, there are procedures and record-keeping processes that can be introduced to provide quality control and feedback, giving you the boots-on-the-ground information you need to ensure that your department is meeting its legal obligations, functioning as efficiently as possible and providing optimal service to all community members, regardless of language proficiency. We have outlined below some agreements we arrived at, and suggestions on how to proceed in a constructive manner moving forward. We hope you find them acceptable and look forward to a continued working relationship.

Summary of 3/26/19 Meeting Requests, Responses and Recommendations

Language Line

Questions:

- Data on Language Line usage and in-house interpretation (2018)
- Process to track usage per language at the precinct level
- Is supervisory approval needed prior to using Language Line or other interpretation services? If so, what is the process and how long does it take?

Answer: Commissioner Ryder will provide us with data on Language Line usage and shared that there is no current tracking process in place at the precinct level. No supervisory approval is necessary to use Language Line.

Response: Thank you in advance for providing the Language Line data, if possible, within the next 30 days. We recommend putting a process in place to track language line usage at the precinct level.

Bi-lingual proficiency, numbers and evaluation

Questions: How many bilingual dept. personnel are in the NCPD and what language do they speak. How do you evaluate their proficiency? Any additional hiring to promote diversity?

Answers: Numbers of bilingual personnel were not made available or shared at this meeting. The current process described is one of self- assessment where officers can indicated their level of proficiency on their employee portal. Sergeant Gregg explained that officers can review vocabulary on NCPD Intranet to evaluate their own proficiency, but they are not tested by the PD. Court certified interpreters are sometimes used. Regarding diversity, hiring off the list is expected in May, first for villages (16-17 officers), and then County (20 officers)…no clear answer on diversity in those numbers.

Response: We request information regarding the number of bilingual personnel, languages spoken and precinct location within 30 days if possible, and would recommend a system be implemented with a language consultant for the NCPD's Human Resources Department to evaluate and track employee language proficiency.

Language Access Plan

Questions: Can we have a copy of the NCPD Language Access Plan and any related directives or policies?

Answer: We thank you for the copy of the NCPD Language Access Plan you shared.

Response and Follow-up:
• Please provide any related directives and policies, and information relating to how and when this plan will be distributed to department personnel?
• There was reference to OPS 3132 and 3132-A, which were not included in the document. Please forward them to us.
• Section V makes reference to translating documents but does not indicate which documents will or have been translated. Please share that information.
• Section X references friends, family and children as interpreters. We recommend strong wording i ndicating that this should not be viewed as an option, except for adult family members in case of emergency and under no circumstance should children be serving as interpreters.
• We request that the LAP be translated into all 7 recognized Nassau County languages and be placed on the NCPD website as soon as practicable and feasible.

Smartphone Language App

Questions: How many officers have access to the Smartphone language access app? Where are they located? Have there been any problems? How do those without phones gain access to interpretation services?

Answers: All police cars and specialty units have an I-phone to access interpretation. In the precincts, equipment is provided at all locations to access services.

Language Access and Cultural Competency Training

Questions: What language access and cultural competency training has been provided to departmental personnel over the past year? When was it provided, for how many, how often and what does it include?

Answers:
• One time in-service sensitivity trainings included presentations by Sikh, South Asian and transgender communities, with an annual (?) visit to the Holocaust Museum
• L.A. training: officers have access to cards with instructions and can view a 'how to' video online
• Language Line trainings are included at the academy and turnout of seasoned officers
• No specifics on training dates or content
Request and follow-up:
• Please forward your curriculum and schedule for language access and cultural competency trainings
• LILAC can provide resources and a video which can be used in language access training

Testing past and Present

Questions: After we presented testing results from last year, Commissioner Ryder said an internal audit would be conducted and a reminder would be sent to all personnel regarding policies and procedures.
• Has this been done?
• Any of these problems referred to Internal Affairs and if so, what were the results?

Answers: No information was supplied regarding follow-up.

Questions/Observations on current testing
• Signage regarding the right to an interpreter was not visible at most precincts
• Most callers were unable to get assistance, with several being hung up on or disconnected

Answers:
• Commissioner Ryder said that testers should ask for the name of the officer who picked up the phone and then escalate issues to a commanding officer if they don't get a good response
• Commissioner Ryder said that we should call him when we experience problems and gave us his number (516) 523-7055, and he will ensure the officer is disciplined

Response:
These answers are highly problematic because:
• They ignore the fact that someone who is calling for help may not receive assistance in a timely

manner, if at all. This jeopardizes the public safety.
• The department is trying to build trust with already threatened communities and this is not conducive to that effort
Regarding last year's testing and promised response, advocates and communities need to know the police department will be responsive and means what they say about protecting and serving all the people in Nassau County. Given the service gaps we encountered, we are concerned that these problems do not appear to have been investigated by the department.
• Testing Results Attached: Please provide a detailed response by May 1, 2019 regarding how the gaps in services which we have identified through our recent testing will be addressed.

Complaint Process

Questions: What does the complaint process entail?

Answer: Complaints are handled by the Blue Team. After a complaint form is submitted, the commanding officer will reach out to the complainant. If it is a Language Access complaint it should be process and addressed within 24 hours.

Response and Follow-up: We recommend that additional multi-lingual outreach is needed to inform the public of the right to file a complaint, with instructions. We requested that the complaint form on the website be in a format which can be translated and that printed copies be made available in various languages and distributed at community meetings.

Website

Question: Have there been any improvements to the website accessibility for speakers of languages other than English? Is accuracy checked? Has LAP been posted? What about ADA Accessibility?

Answer: Commissioner Ryder said all translated documents are proofread by departmental personnel

Response and Follow-up: We discussed the quality of translation, which appears to be done by Google translate, and provided suggestions to improve Spanish translations on the FAQ page and the DV page, on which we found many inaccuracies. We recommend: webpage proof-reading and revision for accuracy. We also recommend moving the "Select Language" tab to the top of the page and posting the Language Access Plan online. Re: vision accessibility, we suggested information be shared in accessible formats and provide information about the Helen Keller Services for the Blind for technical assistance. We thank Commissioner Ryder for offering to follow up and address this.

Francis Decision

We thank Commissioner Ryder for providing the new policy

Telephone Messages

Question: Can the department use an English/Spanish phone message?

Response: Commissioner Ryder said they do not use answering machines at the precincts Domestic Violence Protocols

Question: what is the policy on use of children or bystanders as interpreters/taking statements in preferred language?

Answer: There was not a lot of discussion

Response/Request: We would appreciate it if you could share any departmental directives regarding DV protocols.

Interpretation at Community Meetings

Questions: We expressed concern about quality and consistency of interpretation at community meetings, as we have been at meetings, such as the Feb. 17th Immigration Town Hall, where an interpreter may begin the program, but would stop and not provide services seamlessly.

Response: Commissioner Ryder said the department would provide an interpreter only if it sponsors the event. Otherwise, the NCPD does not have any control over the availability or quality of interpretation.

Response/Recommendation: We recommend that competent interpretation be provided at NCPD community events, even if this means that the Commissioner must bring an interpreter with him. This is fundamental to building trust and demonstrating respect for immigrant communities. Since this is a difficult job, we recommend that a back-up interpreter be available whenever possible so one may relieve the other.

Future Meetings: In order to ensure continued progress and dialogue, we are requesting that another meeting be scheduled for May 2019.
We look forward to hearing back from you. On behalf of the Long Island Language Advocates Coalition, we thank you for your anticipated attention to these concerns.

Sincerely,
Cheryl Keshner, Empire Justice Center
Susan Gottehrer, New York Civil Liberties Union, Nassau Chapter
Osman Canales, LI Center for Independent Living and LI Immigrant Student Advocates Keiko Cervantes- Ospina, Community Legal Advocates

Appendix B

LILAC Language Access Testing Calls to NCPD 3/21. 3/25 and 3/26/19

1)Nassau Police - 2nd Precinct 516-573-6200 SPANISH 3/21/19 2:50 PM
Put me on hold, then told me to call 911 even if it wasn't an emergency, that they will provide me with interpretation.

2) Nassau Police - 3rd Precinct 516-573-6300 SPANISH 3/21/19 2:54 PM
Put me on hold, then an officer answered who was rude, when I asked him "Habla Espanol?" He keep saying "NO!" and I kept repeating "Habla Espanol?" Then he hung up.

3) Nassau Police - 4th Precinct 516-573-6400 SPANISH 3/21/19 3:03 PM
Male picked up and when I asked "Habla Espanol?" He said "Un poquito" He tried speaking in Spanish. Then put me on hold, then picked up and I heard him reading instructions, then put me on hold 2nd time, then picked up phone again and put me on hold 3rd time and hung up.

4) Nassau Police - 5TH Precinct 516-573-6500 SPANISH 3/21/19 3:10 PM NO ANSWER, PHONE BUSY

5) Nassau Police - 7TH Precinct 516-573-6700 SPANISH 3/21/19 3:14 PM
Officer Valentine picked up, when I asked him "Habla Espano?" he said "NO" and continue asking me questions in English as to what was the issue.

6) Nassau Police- Headquarters 516-573-7524 SPANISH 3/21/19 3:17 PM
An operator picked up and when I asked "Habla Espanol?" she said no. She asked if I needed Police and if this was an emergency. I said "No emergency" then she said, "Well, you are calling the police". Then she dialed Language Line. The interpretation from Language Line was good.

7) Nassau Police - 3rd Precinct 516-573-6300 3/25/19 URDU/Hindi 4:50 PM no answer.

8) Nassau Police 1st precinct (516) 573-6100 3/25/19 URDU/ Hindi 4:51 PM no answer

9) Nassau Police - First Precinct 516-573-6100 SPANISH 03/25/2019 6:25 PM Female officer "wrong number," then hung up.

10) Nassau Police- Second Precinct 516-573-6200 SPANISH 03/25/2019 6:27 PM Police officer said, "You have to call 911, we don't have an interpreter"

11) Nassau Police - Third Precinct 516-573-6300 SPANISH 03/25/2019 6:29 PM Police officer said, "No speak Spanish, no interpreter"

12)Nassau Police - Fourth Precinct 516-573-6400 SPANISH 03/25/2019 6:33 PM Police officer said "No hablamos espanol."

13)Nassau Police - Fifth Precinct 516-573-6500 SPANISH 03/25/2019 6:36 PM Spoke with one police officer, then was transferred to interpreter.

14) Nassau Police - Seventh Precinct 516-573-6700 SPANISH 03/25/2019 6:39 PM Police officer said, “No Spanish here”

15)NCPD Headquarters 516-573-7524 SPANISH 3/25/19 6:43 PM Police officer said “We don’t speak Spanish”

16) Nassau Police - First Precinct 516-573-6100 SPANISH 03/26/2019 11:44 PM
Person answered phone and said, “No habla espanol.” I asked do you have someone who speaks Spanish? They replied, “uno minuto” and put me on hold. Came back and asked, “Ms. Matthew?” and I said, “No, espero para alguien en espanol,” and they put me on hold. Then another officer got on the line and said,” uno momento.” and put me on hold. Again, same person said hello, I repeated, “ habla espanol?”, and he again responded, “uno momento” and put on hold. Waited 8 minutes and then a women answered the phone in Spanish, she said she was an interpreter, but she couldn’t speak to me, because the police officer was not on the line. She advised, I had to call back the precint and connect with an officer on the line. She could not assist me, because she isn’t an officer.

17)Nassau Police - 5TH Precinct 516-573-6500 SPANISH 3/26/19 12:10 PM
Male officer answered phone, I asked “Habla espanol?” and he told me to hold please, another person picked up and I asked, “Habla Espanol?” and then he had me wait like 30 seconds and transferred me to interpreter who answered my question.

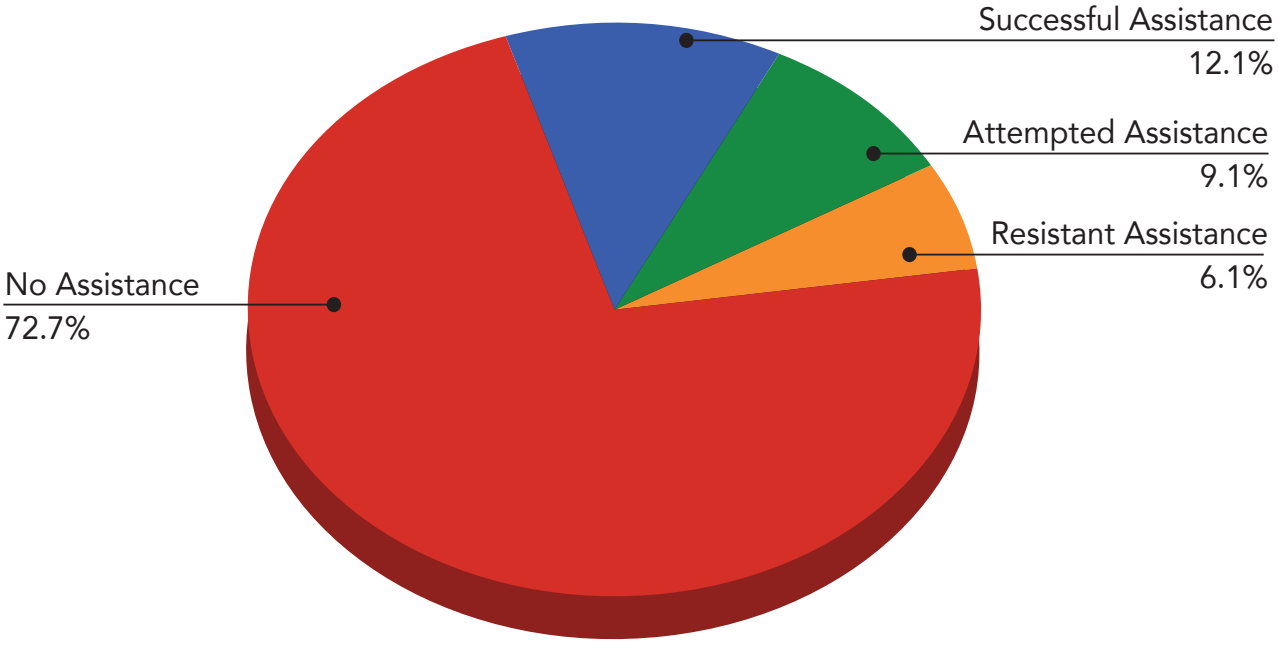
18) Nassau Police - 3rd Precinct 516-573-6300 SPANISH 3/26/19 12:25 PM
Male answered call and I said, “Habla espanol?”, he answered, “No”. I asked ,” Necisito espanol” he stayed quiet for a few seconds and said, “Hold on” and was on hold for a good 4 minutes and then the call droppe.

19)Nassau Police - 4th Precinct 516-573-6400 SPANISH 3/26/19 1:45 PM
Male answered the phone and I said, “Habla Espanol?” he said, “No, hold please.” I waited 2 minutes and he came back on the call and said in English, “ One more minute please”. On hold for like another two minutes and came back, “Sorry, we have no one to help you” and hung up.

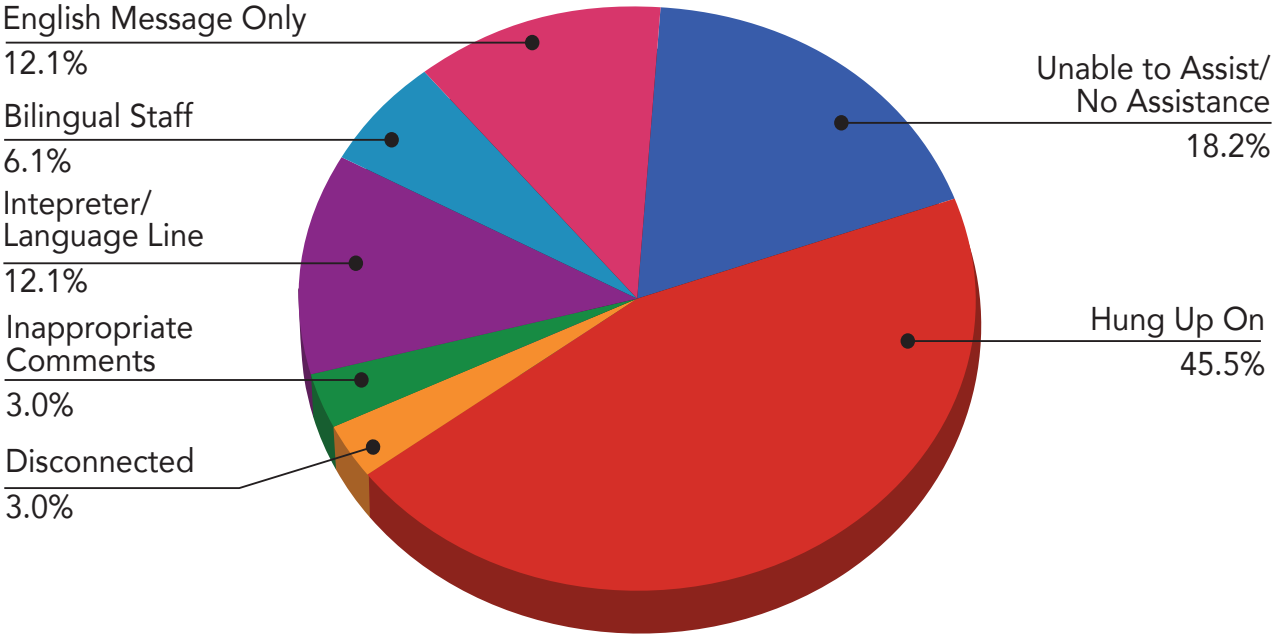
Nassau County: Overall Level of Assistance	Number of Calls
Successful Assistance	4
Attempted Assistance	3
Resistant Assistance	2
No Assistance	24

Nassau County: Overall Call Response	Number of Calls
Unable to Assist/No Assistance	6
Hung Up On	15
Disconnected	1
Inappropriate Comments	1
Interpreter/Language Line	4
Bilingual Staff	2
English Message Only	4

Nassau County: Overall Level of Assistance



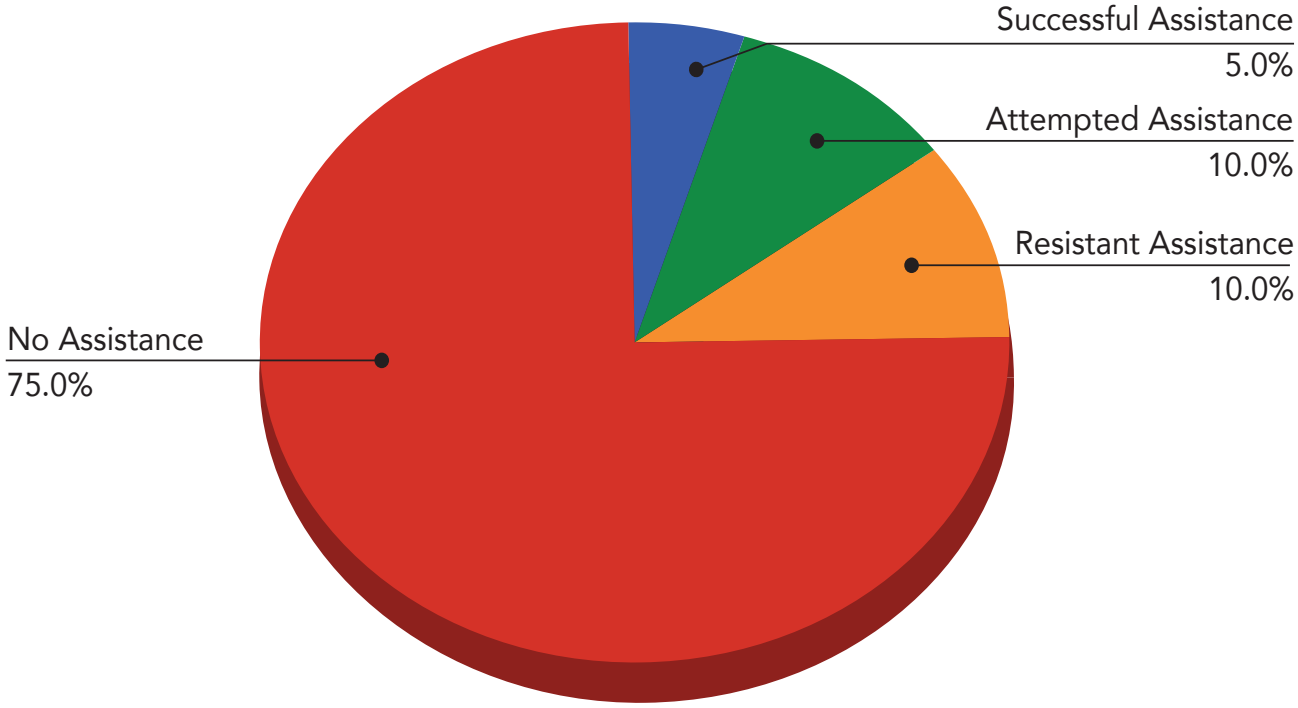
Nassau County: Overall Call Response



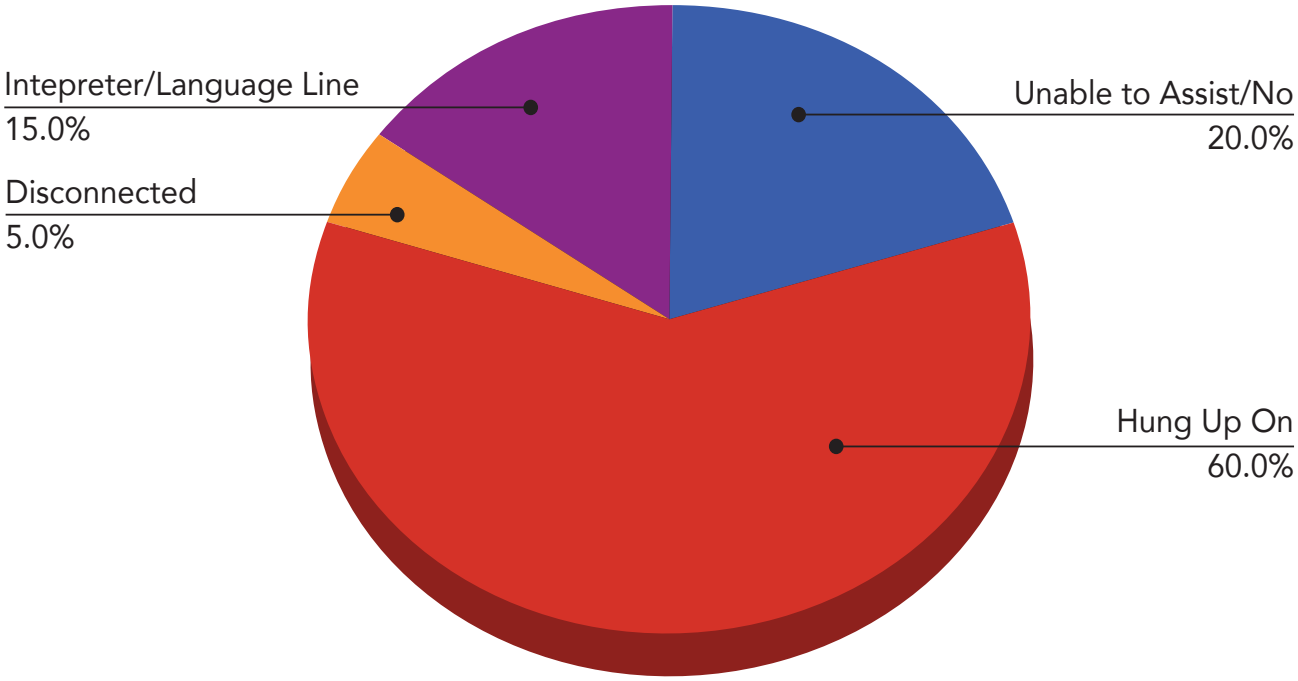
Nassau County Police Department Level of Assistance	Number of Calls
Successful Assistance	1
Attempted Assistance	2
Resistant Assistance	2
No Assistance	15

Nassau County Police Department Call Response	Number of Calls
Unable to Assist/No Assistance	4
Hung Up On	12
Disconnected	1
Inappropriate Comments	0
Interpreter/Language Line	3
Bilingual Staff	0
English Message Only	0

Nassau County Police Department
Level of Assistance



Nassau County Police Department
Call Response



Language Access

It is critical that the public be able to communicate with law enforcement and the public receive **timely and accurate assistance in a language they understand.** This may be through the use of professional interpreters or trained bilingual personnel. Translated written materials and signage must also be provided. Language access saves lives.

What Happens When **Language Access is Denied?**

- Lives are placed in peril.
- Victims are unable to get **Orders of Protection** or **Immigration Relief.**
- **People are unlawfully arrested,** especially in low income Black and Brown communities.
- Arrests may lead to deportation and family separation.
- **Children are place in jeopardy,** including those who are missing or abused
- Victims and their families are **retraumatized**
- Crimes go unreported.

Proposal and Implementation

- Stop using Children as Interpreters.
- Provide **timely and accurate** language assistance to all.
- Show **greater respect** toward immigrant communities.
- Greater accountability when access is not provided
- Thorough investigation and timely processing of complaints with updates in the individual's language
- Officer must read back **entire incident reports** in person's language to ensure accuracy
- Hire and train more bilingual and **bicultural personnel & test for language proficiency**
- Conduct/increase internal audits
- Collect and share data by department, precinct and unit regarding Language Line usage
- Develop a comprehensive language access plan & training (NCPD)
- Translate complaint forms and other vital documents and make available to public (NCPD)
- Address and root out Internal bias in the department. This may require federal oversight of the NCPD and increased oversight of the SCPD.
- Quality interpretation at all community meetings

"I asked for an interpreter and the officer said no, this is the USA. We speak English here."

"I had to call the police three times because my husband was abusing me. They used my *children to interpret* and said they could not make him leave because we were married."

Building Authentic Trust & Legitimacy Within Communities

Section Summary

Public safety is best achieved through a collaborative process between local communities and police departments that serve them. Communities need to have a voice in creating and implementing programs that prevent and resolve conflicts without involving the traditional criminal justice system and resorting to incarceration.

In order to achieve such a public safety system, Police departments need to transform their culture. A philosophy that promotes partnerships and problem-solving techniques, driven by the communities that are being served, must be instituted in order to proactively address the conditions that give rise to public safety issues. Such a philosophy must serve as a foundation for Long Island police departments.

This section proposes to transform policing on Long Island by authentically building trust and legitimacy within communities via changes in police department practices, policy, and overarching culture. The components of this proposal will answer the following questions:

1. How should the police and the community engage with one another?
2. What are strategies to ensure that the department's cultural norms and informal processes reflect the formal rules and policies?
3. How can the police department make its policies, procedures, and practices more transparent and community-centered?
4. How can local governmental officials address the root causes of criminalized behavior?

In its essence, Law enforcement agencies must establish a culture of transparency and accountability to build public trust and legitimacy. They must engage communities by recognizing and appreciating their fundamental self-determination, and empowering them to take the lead in determining the policies and practices to which they are subjected.

The Proposal

To build authentic trust and legitimacy within communities by transforming the policies and practices of LI police departments.

Components of the Proposal

This proposal includes the following components:

1. Implement Community Centered Policies & Practices
2. Ensure Community Control of Policing
3. Evaluate and Implement Crime Prevention Programs that Give Control to Communities
4. Address the Root Causes of Criminalized Behavior by Meeting Community Member Needs
5. Transform the Culture of Policing to Build Community Trust

1. Implement Community Centered Policies & Practices

All communities across Long Island need to be afforded the same level of respect and forbearance regardless of the community's diversity or financial status. To achieve external legitimacy, all Police Departments should involve the community in developing and evaluating policies and procedures. Many police departments utilize procedural justice language but maintain suppression philosophies and policies and procedures. To that end, all aspects of the policing system should adopt procedural justice as the guiding principle throughout all internal and external policies and practices to guide their interactions with the citizens they serve. There is serious public distrust which is based in the interactions of communities and police. In order to correct this issue, we must change law enforcement's policies and practices toward communities. This includes:

Adopting a Least Harm Approach

When law enforcement must intervene in the community, they should adopt "least harm" resolutions to crimes and infractions. For example, police departments should be encouraged to issue warnings and citations, or to informally resolve minor altercations or infractions, in lieu of arrest. When a warning or informal resolution is insufficient, low level misdemeanors should not be arraigned in district court and instead should be diverted into a community based intervention program, such as a community court or peacemaking court. Additionally, individuals with a higher risk of re-offending should be directed to community-based programs that address the underlying conditions that lead them to reoffend.

On an individual level, all police officers must understand the incredible responsibility and power given to them by the state and community members. Every incident that involves a police officer can potentially escalate into a violent, and even lethal, situation; this is because for all incidents the officer is bringing a weapon to the scene. Interpersonal interactions that include offensive and harsh language can escalate even the most minor situations. Therefore, law enforcement must be trained in de-escalation techniques such as the "time, distance, cover" technique.[1] In every situation, law enforcement officers must understand how to think, react, and preserve human life. Adopting a "least harm" approach is

[1] See the Seattle Police Department Manual, § 8.100 for further detail on the time, distance, cover approach.

critical to preserving life, and critical to the decision-making process. Comprehensive training in "least harm" approaches must be mandatory. Officers must be trained in "what to expect", "what to do next", and how to maintain the safety of all people involved in an incident.

End "Broken Windows" Policies and "Stop, Question, and Frisk"

For police departments to build trust in communities, they must establish policies and practices that reflect community values and do not result in disparate impacts on various segments of the community. Unfortunately, many police departments on Long Island implement policies that drive excessive and aggressive policing, increasing the arrest of community members for minor infractions. "Broken Windows" policy is one of these policies. Broken Windows policing embraces the theory that if minor crimes are allowed then more serious crime will ensue. In practice, this policy has allowed discriminatory policing by targeting certain communities home to a disproportionate number of people of color. Police in these communities scrutinize every move people make and arrest for small infractions, and disproportionately stop and frisk people of color.[2] People of color in these communities feel targeted, harassed, threatened, surveilled and abused.

Broken windows policy creates two separate neighborhoods - one that is occupied with a heavy police presence, and a second, the white suburbs, that is not. The disparate treatment of police enforcement between neighborhoods means that people feel the effects of policing differently depending on their zip code.

Campaign Zero describes the impact of Broken Windows policing as "Broken Windows policing has led to the criminalization and over-policing of communities of color and excessive force in otherwise harmless situations."[3]

Nassau County, in its police reform plan, defended their Broken Windows policy by claiming the following:

> *"The NCPD has a long history of community policing. One of the most important components of community policing is enforcing a high standard for quality of life. By fixing and correcting smaller crimes and infractions (i.e. criminal mischief such as broken windows), it will in turn decrease and deter larger crimes from being committed."*

This defense directly describes the reason people in these communities distrust police. "Community policing" is touted as a mechanism for improving community-police relations and ensuring engagement from the community in police activities. Yet, as this statement shows, this policy is actually a pretense to surveill people of these communities to identify and arrest for minor crimes and infractions. The writers of this proposal challenge Long Island government officials and police departments to scrutinize how minor crimes and infractions can be corrected without shuttling people into the criminal-justice system. It is obvious that the enforcement of VTL charges, such as arresting people for riding bicycles without a light or a bell, jaywalking, or improperly illuminated license plates, are enforced in low income communities of color and not in white suburban communities such as Roslyn or Great Neck. This aggressive policing of minor offenses and heavy police presence destroys trust and communication between people of color and the police. No police reform bill is meaningful or adequate unless Long Island eliminates their reliance on their Broken Windows policing.

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[2] Johanna Miller, Simon McCormack, "Shattered; The Continuing, Damaging, and Disparate Legacy of Broken Windows Policing in New York City," NYCLU, September 20, 2018, https://www.nyclu.org/sites/default/files/field_documents/nyclu_20180919_shattered_web.pdf

[3] "End Broken Windows Policing," Campaign Zero, accessed February 8, 2021, www.joincampaignzero.org/brokenwindows

Prioritize Transparency

When serious incidents occur, including those involving alleged police misconduct, all Police Departments should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

Additionally, research conducted to evaluate the effectiveness of crime-fighting strategies should specifically look at the potential for racial disparities of any given approach that violates community trust and legitimacy. Police Departments should promote legitimacy internally by applying the principles of procedural justice.

Demonstrate Respect for Every Community Member

Building trust also involves respect for community members even when deceased. During crime scenes, at times the police leave the deceased body uncovered while they are investigating for hours on end. More effort should be made to utilize tarps and coverings whenever possible while still preserving the scene for investigation.

Update Domestic Violence Protocols

One of the more challenging and sensitive issues in which police intervene is domestic violence. During all police contact, Police Departments should provide at least two domestic violence hotlines and two hard copy resources to all individuals engaged in the police contact if it is related to any intimate partner altercation.

In instances of intimate partner related police calls, we recommend police officers who engage with all people who identify as women, including trans women and girls, be required to share with the individual that past justice involvement (unless directly related to the current altercation) will not be used to retaliate against the individual at the time of their police contact and will not result in unequal or unfair treatment of the individual based on a past conviction or offense.

Additionally, all Police Departments should require that all officers be required to do an annual site visit to a domestic violence or justice focused non-profit to learn more about their services and how they can positively engage with the agency.

2. Ensure Community Control of Policing

Community-police relations are fraught in communities of color. Mistrust is pervasive, particularly between police and young people. This mistrust exists in part due to the infliction of past harms by the police departments that have not been acknowledged or addressed and due to a lack of understanding by the police of the culture, history and quality of life issues in the communities they serve.

As an approach for identifying and mitigating crime, many police departments operate a Problem-Oriented Policing (POP) model. This model is accompanied by aggressive public relations campaigns which position itself as friends of the community. Under a facade of improving community-police relations, resources are provided to police departments to implement strategies such as Park, Bike, Walk, and Talk. While these strategies are positioned as working with the community to create investment and partnership, in reality they are mechanisms for intelligence gathering and makes community members complicit in their own surveillance.

Understanding the reality of the POP model begs the question, “how can police departments engage communities in a manner that is authentic toward developing trust?”

The solution involves community control and ownership of police engagement. There are examples

in Suffolk County's Human Trafficking Unit of productive community engagement and trust from which all departments and units can learn. These processes should be highlighted, reviewed, and modeled throughout Long Island police departments. Additionally, Police departments should collaborate with community members to develop policies and strategies for deploying resources that aim to reduce crime and solve community issues. Some strategies include:

Evaluation and Improvement of Community Councils

Each county police department should evaluate the current community councils in each precinct to understand the use and effectiveness toward understanding the real-world issues faced by community members. Implementing improvement science, the police departments should work to ensure that the councils are effective representatives of community needs. These councils would meet monthly to discuss concerns in the community relating to police-community relations, as well as quality of life issues. The councils should represent a cross-section of the backgrounds of community members and be structured to reflect the racial, ethnic, gender, socio-economic, and age diversity of the community. While these councils will focus on community-police relationships, they should be a support to the Equity & Safety Task Force (see Section 12: Continued Reinvention: An Equity & Safety Task Force) to promote innovation and development in public safety holistically.

Community-Led Collaborative Problem-Solving

Law enforcement agencies should work with community residents to identify problems and collaborate on co-implementing solutions. In furtherance of this effort, police departments should hold regular forums – not just in their precinct buildings but also out in the community, reaching residents where they are.

Additionally, as dictated by stakeholders within the community, police officers should participate in citizen-led events to establish relationships with citizen-led social services organizations. When the police departments establish new programming, it should be made in collaboration with existing community organizations and should be made with a particular focus on reaching underserved communities.

3. Evaluate and Implement Crime Prevention Programs that Give Control to Communities

Local communities are well positioned to address the conditions that give rise to public safety issues. **Although police departments have a role in maintaining public safety, overpolicing can easily devolve into racial profiling, excessive use of force, and can arouse resentment from people living in challenged communities.** Moreover, not every infraction or crime is best resolved by the criminal justice system. Indeed, arresting an individual has many negative collateral consequences for both the defendant and the community. Once charges are brought, citizens become part of the criminal justice system with cases dragging on for months to years. This results in lost employment opportunities during the pendency of their case and post disposition. No community can benefit from its citizens not being able to obtain housing, transportation, education and most importantly, employment. Therefore we must consider alternatives to involving law enforcement and the criminal justice system as it is currently.

Currently, those programs identified as diversion programs in Nassau and Suffolk County are not community-based nor are they completely focused on avoiding the criminal system, instead they are punitive, coercive, and fail to provide alternatives to criminalization of certain situations. For example, the District Court Treatment Court dispositions result in participants pleading to a crime or waiving sealing after successful completion of the program (in the Felony Diversion Part, the conviction is

sealed or dismissed upon successful treatment.) Moreover, many participants are made promises by law enforcement for taking unnecessary risks only to learn there was no intention or follow through getting the defendant help. This results in distrust within the community and impedes our citizens from securing employment, financial aid and housing - pathways towards actual recovery. Nassau and Suffolk Counties should evaluate their crime prevention programs and implement programs that resolve issues that leverage community-based organizations and community members prior to involving the police or criminal justice system. Community members should be actively engaged in peacemaking programs that resolve conflicts within their community.

The implementation of crime prevention programs in Nassau and Suffolk County involve the following components:

1. Establish Pre-Arrest Diversion program to which low level misdemeanors and felony criminal mischief charges are referred before arrest to prevent people from ever entering the criminal court system.
2. Establish peacemaking courts where community members resolve disputes using the assistance of a mediator, bypassing the traditional court system.
3. Create a Community Court that takes a holistic approach by covering a broader range of issues facing a litigant (e.g., DWI Diversion, Veterans Traffic Court, 511 sliding scale for SCOFF fees, Resolution/ Restitution-based programs,) This can be achieved with integration of DSS, Medicaid, Disability Assistance, One-Stop Employment Center, WORC, Federation of Organizations, Economic Opportunity Council, New Horizon, The Safe Center, Empowerment Coalition of LI, Nassau & Suffolk Community Colleges, STRONG for Youth, W.A.N.T.E.D., NCBA/ SCBA, VFWs, AA/NA/ AL-ANON/ ACA groups, Long Island Coalition for Homeless, S:US (Services for the Underserved), VAMC, SouthOaks, C.K. Post, local faith groups, Long Island Advocacy Center).
4. Expanding the Diversion Courts already in place by including high-risk offenders, and sealing or dismissing convictions upon successful completion of the program.

Pre-Arrest Diversion Programs

Nassau and Suffolk counties should create a Pre-Arrest Diversion program to prevent people who committed low-level crimes, minor infractions and Vehicle and Traffic Law (VTL) misdemeanors from ever entering the criminal justice system. This program provides an alternative for law enforcement making arrests, reducing the number of people facing jail time, criminal records, and financial setbacks resulting from court fines and surcharges. The program would be eligible for individuals who take responsibility for their actions, agree to make restitution to their victims and/or participate in community service, and do not present a risk of harming others. People without prior misdemeanor convictions within two years or felony convictions within 5 years would be strong candidates for the program. The Pre-Arrest Diversion program accepts low level misdemeanors, like petit larcenies and marijuana charges, and felony and misdemeanor level criminal mischief (i.e. grafiti). Other eligible offenses include VTL charges, including driving with suspended licenses, pursuant to VTL 511. These VTL charges clog up our courts and burden people with making multiple court appearances, often resulting in loss of employment on top of hefty court fees.

Participants are referred by community members who do not want police intervention, or by police officers who opt to divert to this program in lieu of arrest and arraignment. This program, set up by the county, is outside the purview of the District Attorney's office and the police department. The staff will screen participants and require them to pay restitution, pay fines or do community service. This program allows people charged with low level offenses to completely bypass the criminal court system, and allows redress for certain offenses without the adverse consequences of a criminal conviction.

Peacemaking Courts

Nassau and Suffolk Counties should also establish peacemaking courts, which are different from community courts in that they help prevent crime or the escalation of criminal conduct. Peacemaking courts bring together in one room disputants, including family members, friends and community members, to discuss ways to resolve a dispute without resorting to the traditional criminal justice system. Community residents can access peacemaking courts on their own accord and work with a mediator to resolve a dispute. Alternatively, cases can be referred to the peacemaking court by defense counsel, a prosecutor, the police department, or by recommendation of community members. Peacemaking courts handle disputes involving minor assaults, shoplifting, criminal mischief and other issues.

The process involves a mediator or member of the community of good standing, trained by the peacemaking program, leading sessions involving all those affected by a dispute. Every participant discusses how the dispute affects them personally, how to heal the relationships damaged by the conflict, and how to improve their lives to prevent further conflicts. Participants discuss resolutions, ranging from an apology, volunteer work to restitution. The process can involve more than one session and concludes when all the participants consent to a resolution.

Holistic Community Court

Nassau and Suffolk Counties should establish community courts modeled after the Red Hook Community Court located in Brooklyn, NY. The Red Hook Community Justice Center was built to resolve public safety issues within the Red Hook neighborhood. Housed in a single courtroom, the Court addresses the needs of the offender, the community and the victim. First, the court addresses the many needs of the offender- coordinating and referring them to services for drug treatment, housing, continued education and vocational training programs, among others. Instead of incarceration, offenders are required to engage in restitution projects, such as cleaning up parks, and other community service projects. Second, the Judge works closely with the community, attending community meetings and participating in neighborhood events, to observe community needs and advocate for services to meet those needs. Lastly, the Center offers victim assistance programs to address resulting trauma or to refer victims to other services for which they may be eligible, such as food programs or healthcare.

Expanding Existing Diversion Programs

Where a local, community driven solution is not an option, **Nassau and Suffolk Counties should significantly expand their criminal diversion programs to prevent incarceration and address the underlying issues that have led an offender to offend or reoffend.** For example, Nassau County does not have a diversion court specifically to address alcoholism. Additionally, the Nassau and Suffolk County District Attorneys should not reject high risk offenders with criminal records from diversion programs, but should bolster those programs to ensure that offenders complete them and get the services they need to address their underlying addiction, homelessness, joblessness, mental health issues or other factors that are proven to lead to recidivism. High risk offenders, defined as having extensive criminal records, have a low rate of recidivism after successfully completing a diversion program.[4] Nassau County should accept defendants into the Diversion courts based on variables other than the number of criminal

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[4] Deborah Koetzle, Shelley Johnson Listwan, Wendy Guastaferro, "Treating High-Risk Offenders in the Community: The Potential of Drug Courts," *International Journal of Offender Therapy and Comparative Criminology*, 59 (5), https://www.researchgate.net/publication/259449958_Treating_High-Risk_Offenders_in_the_Community_The_Potential_of_Drug_Courts

convictions.

Implementing the aforementioned recommendations should lead to a drop in the number of criminal cases in the district and county courts and should decrease the number of cases that result in incarceration. Additionally, Nassau and Suffolk Counties must measure the success of these programs by compiling data indicating the number of community and peacemaking court cases that have resulted in a disposition not involving incarceration, and the number of offenders that have successfully completed a diversion program without future re-offense.

4. Address the Root Causes of Criminalized Behavior by Meeting Community Member Needs

Criminal justice reform must be a core response to racial disparities. Reform must be viewed through a broad lens of public safety, not through the narrow lens of crime prevention. Public Safety is about investment in communities. Local governments must explore and mitigate the underlying social determinants of criminalized behavior, i.e. low socioeconomic opportunity, the lack of infrastructure, the lack of rigorous 21st Century educational institutions, lack of access to medical care, mental health and behavioral health treatment, etc. As mentioned by the Center for Policing Equity,

> "All communities—but particularly vulnerable communities—are safest when they have the resources they need to prevent the crises that produce calls to 911. Providing those resources is foundational to keeping communities safe."

Presently, Nassau and Suffolk County have a multitude of County Departments that receive budget funds that are either duplicative of other departments or that do not actually function to their full potential. These departments should be examined in combination with all the other departments to develop a holistic approach to resolve issues and develop reform. The budgets, missions, objectives, and intelligence of these departments should be assessed and evaluated. Departments include: Community Development, Minority Affairs, Human Services, Human Rights Commission, Youth Services, Shared Services, Economic Development, Office of Crime Victim Advocate, Probation, Police Department District Attorney, Family & Domestic Violence Task Force, Physically Challenged, Mental Health, Chemical Dependency & Developmental, etc. In many cases, the budgets of these departments, particularly the police department, should be assessed in order to provide opportunities for reinvestment directly to meet community needs.

Along these lines, local Long Island governments and officials should engage in the following:

- Collaborating with communities and specialists to identify and mitigate needs related to public health, education, mental health, and other programs, not traditionally part of the criminal justice system.

- Seeking funding and resources to meet the social services needs of victims of domestic violence and Race, Religion, Gender, LGBTQ, and Disability hate incidents.

- Promoting community-based programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

- Adding and increasing budget line items for resources and personnel to areas of high poverty, limited services, and at-risk or vulnerable populations.

- Seeking funding and resources from federal, state, and foundation sources to create community initiatives and programs that aim to mitigate the root causes to criminalized behavior.

- Ensure police departments direct asset forfeiture and monetary gains back to community engagement initiatives.

Government officials may be able to leverage the Equity and Safety Task Force (see Section 12: Continued Reinvention: An Equity & Safety Task Force) as infrastructure for supporting budget equity and promoting reinvestment into communities. Additionally, in Suffolk County, current departments, such as the Criminal Justice Coordinating Council, may be able to support this task. This department's stated purpose is to improve criminal justice police and program decision-making by providing agencies and government with a better understanding of crime and criminal justice problems; fostering cooperation among agencies and local government; improving the allocation of resources; and providing comprehensive system wide planning toward understanding crime and criminal justice problems within the count.

5. Transform the Culture of Policing to Build

Both the community and the police department play a crucial role in co-producing public safety. Individual police officers also play a role, as their actions can build trust, or create mistrust, prevent incarceration, or tear apart communities. Executive Order 203 has provided an opportunity to allow police departments to look inward, self-assess, transform their culture, and engage with the communities they serve in profoundly new and positive ways that will reduce crime. We should not squander it.

The Brennan Center for Justice states that there must be a new relationship between police and the communities they are serving and protecting. In order to build this new relationship, law enforcement culture should embrace a guardian mindset. In so doing, police will begin to build public trust and legitimacy with the community.

The following areas represent ways to begin to shift the culture of policing and work to build community trust:

Acknowledge wrongs committed by the department and harm done to community in both the past and present

All Police Departments should acknowledge the role of policing in the past, the impact of present injustice and discrimination, and how it is a hurdle to promoting community trust. All Police Departments should request from the U.S. Department of Justice all case studies that provide examples of past injustices. They need to be publicly acknowledged by law enforcement agencies in a manner to help build community trust. (See training Section)

When serious incidents occur in the present, including those involving alleged police misconduct, all Police Departments should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality. This direct and transparent communication with the community will go a long way toward increasing community members' ability to trust that the police department prioritizes the safety and well-being of the community, rather than perpetuating the harmful "Blue Wall of Silence".

To that end, all Police Departments should create a duty to intervene policy that mandates that officers step in and stop any case where they witness what they know to be excessive force or any other abuse, harassment, or conduct unbecoming of a police officer to a victim, suspect, or arrestee. Seeing and experiencing a police culture in which officers stand up on behalf of a community member when their colleague is mistreating someone will increase the community's confidence that the police are, in fact, working to "protect and serve" them.

Police officers should also be duty bound to report misconduct by their colleagues. The county should take steps to clarify its "no retaliation" policy in order to better assuage concerns that police officers will not be penalized, and indeed will be rewarded, for filing complaints. Furthermore, informal or non-work related forms of retaliation must be prohibited, such as making disparaging comments about the complainant to others, or scrutinizing work or attendance more closely than other employees without justification – which may be considered "retaliation" under federal law. We recommend that, similar to the EEOC's Enforcement Guidance on Retaliation and Related Issues, the revised policy more broadly define retaliation, and provide specific examples of both informal and formal examples of retaliation, as well as work related and non-work related forms of retaliation. (see Section on the Office of the Inspector General for more details about creating whistleblower protections)

Create code of conduct related to off-duty behavior

The recent highly offensive social media posts by law enforcement have created distrust with law enforcement and the communities they are tasked to serve. The Police Department currently has no posted policy explicitly governing employees' personal use of social media. A social media policy would not only be legally permissible, but also would prevent the mistrust that forms when police officers are caught engaging in offensive language online.

We recommend the Counties consult with communities to develop a policy for law enforcement personnel that provides clear guidance on the use of social media – whether in an official or personal capacity. To be sure, public employees have a right under the First Amendment and Article I, Section 8 of the New York State Constitution to freely express themselves in their own personal use of social media, particularly when it comes to matters of public concern and labor organizing. We do not recommend infringing upon that right. Instead, the Nassau and Suffolk Police Departments should adopt social media policies that prohibit communication that create the appearance of bias or hatred among those tasked with upholding and enforcing the laws and keeping peace.[5]

[5] The New York State Unified Court System's Report from the Special Advisor on Equal Justice in the New York State Courts provides great guidance on drafting a social media policy that does not infringe upon an employee's protected speech.

Technology and Social Media

The Proposal

Implement best and most up-to-date practices in leveraging technology and social media platforms to promote transparency.

Components of the Proposal

The sections in this People's Plan that address data collection and use of technology more fully address these concerns outlined here. However, the following are some basic must dos for Suffolk and Nassau in making steps to reform the way in which LI police departments display

- Utilizing social media platforms to update the community on relevant police activity to make it publicly accessible. (i.e. traffic stop data, virtual town halls, other information)
- Use social media for authentic engagement with the community, telling the story of the community and not solely on the department's activities and employees (i.e. @tnorman23 on Instagram)
- Use social media and data collected to evaluate and detect racial disparities and biases in regards to all protected classes in policing practices. This could include but not be limited to data regarding police disciplines, shootings by officers, firearm discharges, civilian injuries, use of force incidents, racial/ethnic/gender/sexual orientation/gender identity slurs and officer stops, searches, and/or arrests
- Data should be collected for fields that deal with protected classes and should be made accessible to the public (without a FOIL request). This information should be updated at least quarterly.

Discussion of Content

In the months following the death of George Floyd and the issuance of Executive Order 203 (EO 203), a detailed request for data, information and access to resource information was made to both the Nassau and Suffolk County Police. Remarkably, stakeholders eventually learned that the two counties were not on equal footing as to their collection of data, their evaluation of available data and their use of the digital advances in technology to develop useful metrics that will aid and enhance reporting, and correct behavior. As demonstrated by Suffolk, their data collection led to a revealing report of disparities in the area of traffic stop, traffic car searches, traffic car searches of drivers and occupants and traffic stop which were pre-textual based on race. This disturbing report from Suffolk showed that Black and Brown persons in Suffolk were being stopped at an alarmingly higher rate than white persons despite their comparatively lower numbers in the total population.

Nassau County, on the other hand, failed to collect and produce any reliable or comprehensive data similar to its sister county to the east, although demands and requests that they do so had been made by community advocates years before. Further, Nassau refused to acknowledge or even discuss that based on their own numbers there are major racial disparities in arrest rates for people of color as compared to white people. The LIAFPA-created chart in Figure 1 was created for an evaluation and comparison of just that fact. It demonstrates a 5.3 to 1 arrest ratio Black to white. This calculation was not done by Nassau County, not discussed by Nassau County and was ignored by Nassau County.

NCPD Arrest Data							
Cohort	**Asian**	**Black**	**Hispanic**	**Other**	**White**	**Unknwn**	**Total**
Population (2017 est)	**133,666**	**152,447**	**234,881**	**32,377**	**816,143**	N/A	**1,369,514**
% Total Population	**9.8%**	**11.1%**	**17.2%**	**2.4%**	**59.6%**	N/A	**100.0%**
2018 Arrests							
Male	402	4,118	2,805	253	4,639	205	12,422
Female	166	1,391	779	54	1,580	31	4,001
Combined	**568**	**5,509**	**3,584**	**307**	**6,219**	**236**	**16,423**
Cohort % of Total	**3.5%**	**33.5%**	**21.8%**	**1.9%**	**37.9%**	**1.4%**	**100.0%**
Cohort Frequency Rate	0.00425	0.03614	0.01526	0.00948	0.00762		
Cohort Ratio : Whites	0.6	4.7	2.0	1.2	1.0		
2019 Arrests							
Male	560	3,839	2,722	74	3,893	14	11,102
Female	229	1,297	748	10	1,299	3	3,586
Combined	**789**	**5,136**	**3,470**	**84**	**5,192**	**17**	**14,688**
Cohort % of Total	**5.4%**	**35.0%**	**23.6%**	**0.6%**	**35.3%**	**0.1%**	**100.0%**
Cohort Frequency Rate	0.00590	0.03369	0.01477	0.00259	0.00636		
Cohort Ratio : Whites	0.9	5.3	2.3	0.4	1.0		

Figure 1

Both Nassau and Suffolk have lagged behind modern times in transparency in the use of social media platforms to aid in community contact, collection of local neighborhood information and the dissemination of relevant and regular statistical information about police interaction with the community, particularly those communities that are majority minority communities and are largely segregated by race, color and ethnicity. While Suffolk has been forced to keep data due to its responsibility under a Consent Decree following the intervention of the United States Justice Department, Nassau's failure is nothing short of abysmal with a deficit of data and information that is past negligent. The danger in evaluating Nassau is that one might be inclined to consider it an oversight or high level of incompetence. It is neither; their failure to have the data was clearly intentional, as they have stated publicly again and again that they don't collect important data because they "are not subject to a consent decree." As to both Suffolk and Nassau, neither have taken any steps to extend themselves

and work toward compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections of it residents, especially persons of color.

One such example of the unimaginative and limited use of social media platforms for contacting and obtaining meaningful responses through social media was the attempt by Nassau County to conduct Town Hall meetings for as part of the reform work required by EO 203. In those online sessions, the County aired what can fairly be dubbed Public Service Announcements about what Nassau County and its agencies were doing. They were not aimed at addressing the central questioned raised by the Executive Order. These sessions provided very little opportunity for public comment and did not allow for exchange of dialogue with community members. The issues of racial disparities in the multiple levels of the Police Department were not on any of the agendas and questions relating to any such points were screened out and not addressed. This failure to provide an online forum for such important discussions is consistent with the use, or the under use, of digital platforms to address the needs of those communities most impacted by what is otherwise identified as over-policing and disproportionate numbers of arrest in communities of color in both counties.

As set out in the very detailed evaluation of traffic stop data in Suffolk, and in the proposals for addressing the racial disparities in both counties in this People's Plan — speaking to arrest, traffic stops, bias crimes, discipline, internal affairs and the need for a CCRB in both counties — there can be no dispute that data has been under recorded, under reported and underutilized. As evidenced in the document issued by Nassau County and an overview of both counties, there has been little done to use data to support the development and delivery of training to help law enforcement agencies learn, acquire and implement technology tools and tactics that are consistent with the best practices of 21st century policing. Body cameras have yet to be fully implemented in Nassau and have not been implemented at all in Suffolk (see section on body camera in this People's Plan).

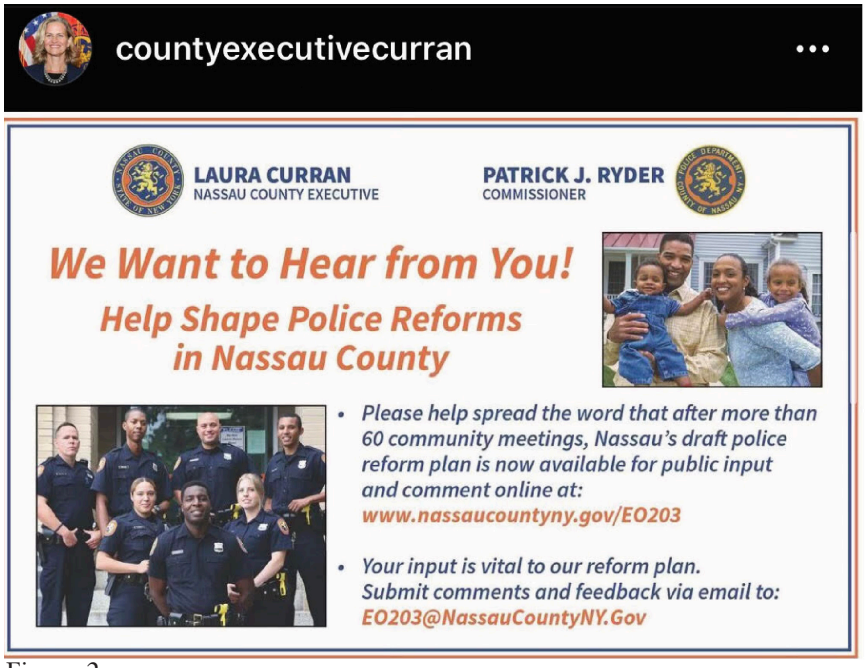

Figure 2

Figure 2 is an online flyer recently issued by the County of Nassau to solicit public input on the document it released on January 6, 2021. The flyer, which is provided above, is not referenced on the website, nor is it obvious for public viewing. At first blush, this flyer appears to provide two sources and points of contact for community members to "Help Shape Police Reforms in Nassau County." However, the link to **www.nassaucountyny.gov/EO203** directs the viewer to a non-specific, outdated[1] website with a list of confusing items that are not explained or detailed. There is nothing on the website which tell the reader the status of the reform process. In fact, nothing explains the conflict in the process that led to mass resignations by members of the public from the PACT and CCT after the disclosure of a so called "Plan" that was never shared with the members of those two bodies. Instead, the website still reads, "County Executive Curran is calling for community input through three forums: Police and Community Trust (PACT), the Commissioner's Community Council meetings, and virtual town hall meetings. This website has been made available for residents to learn more about the Governor's Executive Order and to submit comments for consideration by PACT." This is clearly not current nor is accurate as to what the process was and most certainly is not accurate about input.

Neither Suffolk nor Nassau has provided any information to the public to demonstrate that they have:

- performed a cost benefit analysis when adopting new technologies
- considered the risks of using a novel technology (unstudied effectiveness, potential biases and intrusion on civil liberties)
- considered their ability to use technology to solve any of their existing problems

What is now forward facing to the public in both counties does not include any process or opportunity for community members to provide input or supply an evaluation tool to gauge the effectiveness of any new or current technology. We are unaware of the existence of either Nassau or Suffolk Counties soliciting input from all levels of their police department agency, from line officer to leadership. Plainly put, the absence of an avenue to receive ongoing and meaningful assessment from members of the community is missing and must be rectified promptly. Data is lacking and unreliable as to discipline of officers and investigations on misconduct. As set out above in this People's Plan in the sections addressing Internal Affairs and CCRB, both counties have not enhanced — in any meaningful way — the internal accountability for misconduct, and neither uses external independent reviewers. Neither Suffolk nor Nassau has a clear and transparent process for investigating reports of misconduct. Both fail to have full transparency when managing officer misconduct with intentions to audit information and provide data on the same.

The concept of being forward-thinking in technology, data collection and making information available to the public has eluded both Suffolk and Nassau. There has been no transparency as to what process each department has in place for the adoption of new technologies. There has been no ongoing process to include the solicitation of stakeholder and researcher input. The process for community input has been limited in both counties. Still the processes, to the extent they exist, do not include the creation and publication of clear policies that articulate how the technology works, how it can be audited, and how, where, when, and why it is used.

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[1] One such example of the website being outdated is the following section which states, "In addition to PACT and CCC, County Executive Curran will host virtual Town Hall meetings this fall to gather public input regarding the Governor's Executive Order. The first virtual town hall will take place on October 14th at 6:00pm on the County Executive's Facebook Page. Questions or comments can be asked live during the Town Hall or sent in advance to EO203@NassauCountyNY.gov. The Virtual Town Hall Schedule to date is: October 14th and October 21st at 6:00PM; October 28th at 6:30PM" Clearly the references to October are in the year 2020 and are long since passed. This fact was made know to the County months ago and no change was made to correct this point.

Hiring, Training, and Education

The Proposal

Implement a set of policies and practices that ensure diversity and accountability within hiring, and promote comprehensive training that focuses on the needs of communities in the 21st century.

Components of the Proposal

The following are the key proponents of this proposal:

1. Implement hiring practices and policies that increase accountability and diversity
2. Support the development of partnerships with training facilities to promote consistent standards for high quality training and establish training innovation hubs
    - A. The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices
    - B. Build a stronger relationship with the International Association of Directors of Law Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST)
3. Law enforcement agencies should engage community members in the training process
4. Law enforcement agencies should provide leadership training to all personnel throughout their careers
5. Develop, in partnership with institutions of higher education, a postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century
6. Create new & improved Crisis Intervention Training for Law Enforcement Agencies
7. Ensure that basic recruit and in-service officer training include curriculum on the disease of addiction
8. Ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness
9. Require both basic recruit and in-service training on policing in a democratic society which includes detailed historical focus on slavery, the oppression of communities and persons of color and the historic role that policing has played and continues to play in our society
10. Encourage and incentivize higher education for law enforcement officers
    - A. Create a loan repayment and forgiveness incentive program specifically for policing
11. Support the development and implementation of improvised Field Training Officer Programs
12. Support the development of a broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs
    - A. Long Island policing agencies should provide funding to incentive agencies to update their Field Training Programs in accordance with the new standards

1. Implement Hiring Practices and Policies that increase Accountability & Diversity

Hiring Policies and Practices to Maintain Accountability & Public Trust

The development of robust and comprehensive hiring practices and policies are necessary for ensuring public trust. At the end of the day, community members first point-of-contact with police departments is the individual police officer. These officers are given tremendous responsibility, and therefore must represent the police department and the community in a manner that dignifies the role and responsibility. A caring, supportive, level-headed police officer can make a significant difference between a bearable and traumatic experience. To this end, it is vital that the hiring policies and practices reflect the values and standards of a supportive and transparent police department. This includes:

- Ensuring that no applicant who has had their license or certification revoked for misconduct by any agency may be hired.
- Ensuring that no applicant with a use of force history may be hired.
- Reviewing and documenting an applicant's social media history prior to hiring.
- Documenting and investigating any and all claims of domestic disputes prior to hiring an applicant.
- Ensuring any arrest (no matter what the disposition or result) for assault, harassment, stalking, criminal mischief, or disorderly conduct excludes the applicant from hiring. Such applicants may engage in anger management programs and present evidence of rehabilitation and victim impact statements and then be eligible to re submit an application for hiring.
- Conducting a search for all litigation history of the applicant.
- Ensuring that any flag on a psychological intake evaluation is vetted through a three (3) person panel and signed off on by the County Executive before such applicant can be hired.

Inclusive Hiring Policies and Practices to Increase Diversity Reflective of Communities

Additionally, all Police Departments should strive to create a workforce with a broad range of diversity to elevate members of marginalized groups to the highest levels of the police department. This includes race, gender, language, life experience, and cultural background.

Nassau and Suffolk Counties must openly acknowledge and commit to eliminating the racial and gender disparities that exist between the county populations and their police departments. For example, as of January 2016, 91% of the Nassau County Police Department's sworn personnel were men, and 82% were white. Conversely, 37% of Nassau County residents are people of color. This disparity is even more pronounced amongst department leadership. To support this aim, police departments should engage in the following:

- Create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the community's demographics. The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve law enforcement agencies' diversity and cultural and linguistic responsiveness.

- Highlight those departments which are not diverse and offer oversight and programmatic and technical assistance to facilitate change.
- Work with community-based groups to identify diverse candidates in areas that are underrepresented in the police departments and provide those candidates free police and civilian exam preparatory courses. This includes focused engagement with immigrant communities specifically to develop a reflective workforce of the community.
- Change hiring and promotional policies such that all new hires and promotions are roughly proportionate to the demographic diversity of the county.
- Increase transparency on how officers are evaluated and commended.
- Ensure criteria for promotional opportunities include a solid understanding and exemplified effectiveness in dealing with all communities.

2. Support the development of partnerships with training facilities to promote consistent standards for high quality training and establish training innovation hubs

Overview

Effective police reform demands a reimagination of the role of police in our society. This means calling into question norms of police training and incorporating the voices of communities who are marginalized. It is critical that at the foundation of any training program for police is community trust and an aim to build trust between police officers and the communities they serve. Therefore, any training facility with which the police despartment contracts should reflect and affirm these two priorities.

1. With whom, specifically, should the police departments develop partnerships, in order to center these two issues?
2. How can we empirically gauge the success of these partnerships?

What would it mean for training to center community trust and input? Primarily, it demands a shift of values. It requires that officers fully understand, respect, and value the well-being of the community they are intended to serve. It also requires a shift in institutional values. For example, "Researchers have found no impact on problems like racial disparities in traffic stops or marijuana arrests" following cultural sensitivity and implicit bias training, likely due to the institutional pressures which remain intact in spite of the training — pressures including but not limited to quotas, "productivity" goals, and an emphasis on "broken windows" policing (Vitale, 24). This ultimately means that in order for any training partnership to be effective, Long Island policing agencies must first make meaningful changes to their institutional values. Training programs should reflect and affirm these values. The main point is that this recommendation cannot exist in a vacuum. As we discuss in other parts of this document, it is critical that we acknowledge the implications of the nature of policing as a tool which affirms centuries of structural racism and oppression and actively work to counter that.

This recommendation also demands that training programs are dynamic — hence, "training innovation hubs" [emphasis mine]. Innovation is generally defined as "a new method, idea, product, etc." This means that if we are truly to center the voices of community members in a plan for training police, we must also recognize that this is unequivocally not a box to be checked, but an ongoing process of navigating solutions which center the evolving needs of the community. This receptivity to community needs demands a means of evaluating community needs, as well as a sustainability plan for adjusting training as necessary. This is why our recommendation is two-fold: "high quality training and training innovation hubs."

A. The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, & the development of curricula based on evidence-based practices

We recommend that Long Island policing partner with local academic institutions in developing rigorous training practices, evaluation, and the development of curricula based on evidence-based practices. This could and should be executed in a number of different ways. One way could be a visiting professorship program which incorporates a variety of perspectives on the role of policing, both historically and contemporarily. For example, Stony Brook University professor Wilbur M. Miller, Ph.D., is a political / social historian with a focus on policing and criminality who is currently working on "an overview of the history of private policing in the United States" (SBU website). Similarly, Robert Chase, Ph. D, explains his work like this: "The nexus of my research centers on the ways in which social justice movements, civil rights, and the prisoners' rights movement have confronted mass incarceration and the carceral state" (SBU website). Additionally, Hofstra has a robust Criminology department. Offering a variety of perspectives which are substantiated by fact-based research could come into contradiction with what trainees think they know about the role of police and provide crucial challenges to the status quo.

Another example, in addition to visiting professorship programs, would be to actually contract with local universities to spearhead ongoing research. The research could focus on a variety of issue areas, including most effective methods for policing, best practices for training, legislation that may support value shifts in police departments, ongoing evaluation of community needs and concerns, etc. These academics could then help to develop, on an ongoing basis, training programs and curricula that reflect contemporary research.

B. Build a stronger relationship with the International Association of Directors of Law Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST)

Police departments must ensure their officers are entirely familiar with all of the laws they are tasked to enforce.

3. Law enforcement agencies should engage community members in the training process

The training of police officers in Suffolk and Nassau Counties is vital for effective and unbiased policing for people of all races, ethnic origin, religious background, gender, gender identity, sexual orientation, disability, food security, living status and class status. Therefore, it is imperative that members of this diverse public have direct input into the training of Suffolk County and Nassau County Police Officers. Indeed, this is required by New York State's Executive Order 203 (EO203) for police reform.

Before proceeding with other recommendations, it is crucial that the reader be fully aware of the obstacles faced in these areas of making recommendations on education, hiring and training.

The County of Suffolk's process of collaboration and earnestly engaging the community is ongoing. While getting a late start on the formal police reform work, to date, the work being done by the Taskforce in Suffolk includes the writing and developing a reform plan that is inclusive of both government, police and diverse civilian stakeholder input. No document has currently been compiled by that group.

In Nassau the approach taken to respond to EO 203 was very different as the County Executive and the Police Commissioner of that County issued a document entitled "Police Reform" that was released with no civilian stakeholders being involved in its writing, structure or research. The Nassau County Police Department's document on police reform states that, "…it is imperative that the County receive input on our plan for police reform and reinvention from as many Nassau County residents as we can reach…Meaningful reform will only be accomplished if our citizens take the time to review this plan and submit any suggestions, comments or recommendations to the County for consideration…This plan was developed after a comprehensive review of police force deployments, strategies, policies, procedures and practices through consultation with community stakeholders. This plan will enable the Nassau County Police Department to continue its robust community-oriented policing strategies while working towards further reducing racial disparities in policing."

A correspondence written by the "Long Island Advocates for Police Accountability (LIAFPA) to the Nassau County Executive and the Legislature made it clear that the Nassau Police had no intention of working collaboratively with the two community organizations that were created specifically to collaborate with the NCPD (the Police and Community Taskforce - PACT, and Community Collaborative Task Force-CCT) in its police reform efforts because for months, members of the PACT and CCT had asked for data and the opportunity to engage in a collaborative process. Specifically, the following questions and requests were made concerning training and education:

> *20. All training materials used by the NCPD, including but not limited to all training materials concerning:*
>
> *a. Investigation of civilian complaints;*
> *b. Use of force, including but not limited to materials that address the circumstances under which the use of force is permitted and training materials that address how to document incidents when force is used;*
> *c. De-escalation strategies and tactics;*
> *d. Conducting pedestrian stops, vehicle traffic stops, and / or field interviews; and*
> *e. Cultural diversity, procedural justice, and / or cross-cultural awareness and cross cultural competency based on race, color, ethnicity, immigration status, LGBTQIA+ status, and disability.*

21. For each training program on the topics listed in Request 20, records sufficient to identify the following information:

- *a. The total number of training programs that have been held on each topic during the Relevant Time Period;*
- *b. The frequency with which training programs have been held on each topic during the Relevant Time Period;*
- *c. Policies and procedures indicating the frequency with which cadets, police officers, detectives, sergeants, lieutenants, captains, and all ranks above captain were / are required to participate in and / or re-attend training programs on each topic during the Relevant Time Period; and*
- *d. The number of cadets, police officers, detectives, sergeants, lieutenants, captains, and all ranks above captain who attended each training program on each topic each time such training program took place during the Relevant Time Period.*

These requests to Nassau were never answered. The correspondence also confirmed that on January 7th, 2021, Commissioner Ryder on the floor of the Nassau County Legislature, told the Public Safety Committee that he was submitting Nassau's Plan for Police Reform and then attached the names of the PACT and the CCT, among others, as sources that were engaged to create this document. However, prior to this presentation, members of the PACT and CCT had asked if a report was already being written without their knowledge, and, if so, whether PACT and CCT members could see it in its existing form. These members were told that there was no such report and were never told that such a report was being written or formulated. It went on to say that the CCT was never asked in any meetings to review any aspect of the report that was revealed to the public and the Legislature on January 7th, and therefore it is clear that the NCPD showed a total disregard for process and no real intent to engage the community to discuss hiring, training, education or any other aspect which would provide community input into these important areas.

Clearly, the specific aspects for the training of Nassau police officers must be stated in Nassau's police reform document. But the NCPD has failed to "engage community members in the training process" which lies at the heart of police reform.

4. Law enforcement agencies should provide leadership training to all personnel throughout their careers

Recognizing that strong, capable leadership is required to create cultural transformation, the Nassau County and Suffolk County Police Departments should invest in developing learning goals and model curricula / training for each level of leadership.

Both Nassau and Suffolk County Police officers are required to effectively and with cultural sensitivity operate in complex social, cultural and political environments. The increasing number of people in each County of different races, ethnic origin, religious background, gender, gender identity, sexual orientation, disability, levels of food security, living status and class status makes this task more challenging. In addition, the income disparities between communities and identifiable pockets of poverty (Long Island is the third most expensive suburban are in the US) have led police to label communities of color as "high crime areas" and that language is part of field train and the number of people with emotional and mental issues makes policing all the more challenging. But no matter how challenging their work is, police officers must be held accountable for their actions. To engage in effective and

culturally sensitive policing in such conditions, effective leadership training is required for all police personnel throughout their careers in order to achieve the cultural transformation that is crucial for the Suffolk County and Nassau County Police to achieve.

EO203 poses numerous questions to police forces in NY State that relate to the issue of leadership training of police officers in Nassau County regarding methods for effective and culturally sensitive policing. Here are concrete responses to just two of these questions that pertain to how to incorporate this kind of leadership training in Nassau's police training curriculum:

- The NCPD is legally mandated to work with the direct input from community members to establish clear and specific training to be provided for all police officers who are members of internal affairs units in the legal requirements regarding the implementation of appropriate disciplinary measures to undertake when responding to clear instances of police officer misconduct.
- The NCPD is legally mandated to work with the direct input from community members to establish clear and specific leadership training to be provided for all police officers in the legal requirements that they must observe regarding what is required of them when they have knowledge of misconduct by another officer.

5. Develop, in partnership with institutions of higher education, a postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century

The value of a postgraduate institute of policing for senior executives is that it places an emphasis on continued learning, affirming from the top down a vision of policing that is active and ongoing. In many ways, continued education serves to remove ego from the equation: there is no one single formula, nobody has all the answers, and everybody, especially senior executives, is expected to continue growing and learning. In this way, this recommendation ties directly into shifting values and re-establishing power dynamics that center community well-being and mutual growth.

It is also crucial that the "standardized curriculum" reflects the transient nature of a vision of policing that truly centers the voices of the community. As we work to undo the impacts of structural racism in other areas, it is certain that the demographics will shift and, consequently, the needs of the communities of Nassau County. It is possible to have a "standardized curriculum" which leaves space for officers to adjust protocols and responses so that they are sensitive to each, individual scenario. The "standardized curriculum" must address the impacts of structural racism, the role of policing in perpetuating race-based violence, the myths of "broken windows" policing, de-escalation as a foundational principle, and alternatives to use of force, among other things. It should also address how to discipline officers who use excessive force, how to support officers who need mental or emotional assistance (and a clear understanding of how officers should ask for assistance / how to make space for officers to ask for this kind of assistance), and how to improve transparency, both internally among officers and externally with the community.

Fortunately, we do not need to reinvent the wheel. A good example of a postgraduate institute of policing for senior executives is Columbia University's Police Management Institute. To give you an example of the kind of senior executives that produced, New York City's current Transportation Bureau Chief, Kim Roysten, is a graduate of the program. Roysten, the third Black female chief of the NYPD,

had a hand in getting 8,000 weapons off of New York City streets between 2008 and 2013. Programs that place emphasis on structural, legislative solutions have far-reaching impacts as these are ultimately the first step to building a police force whose foundation is community well-being. Additional examples include the Southern Police Institute, Georgetown University, and Michigan State. These programs must be subsidized and incentivized by Nassau County.

The reality is that being a police officer is a job that one chooses, and police officers bear the responsibility, first and foremost, to take care of the community which they are tasked to serve. This is no small responsibility; police require training which reflects the serious nature of the task at hand. This demands leaders in the police force who are willing to be taught, to listen, and to learn on an ongoing basis. One way to accomplish this is through postgraduate institutes of policing.

6. Crisis Intervention Training Recommendations for Law Enforcement Agencies

Occurrences of police civilian contact are often marked by varying levels of anxiety and uncertainty. These are especially exasperated in communities where people of color reside. It is critical that law enforcement agencies in Nassau and Suffolk counties take proactive measures to ensure that these encounters, that are often emotionally charged, are resolved in the most peaceful, reasonable, and just way possible. The New York State Police Reform and Reinvention Collaborative has charged police departments with the objective of developing officer training programs that reflect the values of the communities they serve and build trust between police and community. According to the collaborative, these programs should also work to "avoid incidents involving unnecessary use of lethal or nonlethal force."

In the Final Report of President Obama's Task Force on 21st Century Policing, May 2015, section 5.6 of the Recommendations and Actions states, "Police Officer Standards and Training (POSTs) should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training." Section 5.7 recommends, "POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills."

We strongly agree with these recommendations and insist that they, along with the following action items, be made part of the POSTs of law enforcement agencies serving the communities of Nassau and Suffolk counties.

We also call on legislative bodies of each jurisdiction and the budget departments of each agency to make the necessary fiscal commitment and adjustments to implement robust programs of Crisis Intervention Training.

Crisis Intervention Training Shall Include:

I. Understanding the definition of crisis and its effect on the behavioral continuum of those involved

   a. Normal functioning levels and the effects of rationality vs emotionality
   b. Expressive vs Instrumental behavior
   c. Importance of active listening skills
   d. Role of empathy vs sympathy
   e. Importance of distance and time
   f. Developing rapport and trust as a pathway to influencing behavior

g. Developing a team approach to addressing crisis; Law Enforcement Officers in conjunction with:

   i. Mental health professionals
   ii. Federal Agencies
   iii. Community advocates and organizers

II. Understanding Suicide and Depression

III. Understanding Suicide by Cop

IV. Paradigms of addiction and addictive behavior

We are of the understanding that police responses that involve people are most often responses to people in crisis. Crisis Intervention Training should not be limited to a selected few who are assigned to an elite unit (Hostage & Crisis Negotiators) but should instead be part of academy and in-service training and should be prioritized in a way that is equal to or greater than paramilitary and tactical training.

7. Ensure that basic recruit and in-service officer training include curriculum on the disease of addiction

While this section largely mentions & addresses Nassau County, all recommendations should be applied to all Long Island policing agencies.

Prominently on the Nassau County Police Reform website is their full report on the opioid crisis in Nassau. The Nassau County Opioid Crisis Action Plan Task Force Report was issued on October 3, 2019. The mission of the Task Force was to:

To work as a multi-disciplinary team which will create an action plan for the residents of Nassau County that addresses the needs in the education, prevention and treatment of opioid use, while utilizing law enforcement and legislation to effectively reduce illegal opioid distribution and abuse. This roadmap will provide a comprehensive resource guide, which will assist opioid users and their families to find evidence-based treatment and recovery services, while reducing the stigma of addiction. As a county we can demonstrate that the road to recovery does not need to be traveled alone.

While this report and the work that has gone into it is laudable, there is much missing from the report in terms of the formal education afforded to recruits and in-service officer training to fully equip officers with the information and knowledge they need to effectively serve as a first responder that has the optimal impact for persons suffering the horrors of opioid crisis and addiction. Nothing is listed in this report as to the course outline (if any), the resource materials (if any) and / or the required testing (if any) for its officers as to recognition and response for individual officers. While this may exist, the disclosure of the full course materials including syllabus, although sought, was never provided to the stakeholders who requested that information. It appears that a great amount of time, resources, thought and focus has been provided to compile and author this report, the same level of attention and evaluation has not yet been done to address other areas of necessary police reform that impact and are front facing for the communities that currently are the most policed and serve as the greatest source, by percentage of police arrests in Nassau County.

The report sets the tone of its focus by telling the tragic story of Natalie Ciappa, an 18-year-old honors student and cheerleader at Plainedge High School who lost her life to a heroin overdose after her parents found her lying unconscious on a couch in the garage of a Seaford home.

The report provides statistics from the Nassau County Medical Examiner's Office which give an overview that Nassau County saw an increase of opioid-related deaths between 2010 and 2016. Touting that after the Opioid deaths peaked in Nassau County at 195 in 2016, they began to decrease in 2017 and have continued in percentage to decline in 2018.

Of interest in relation to the question of police reform the report references a rationale that based on its own statistics, in 2018, the NCPD identified the communities hardest hit by the opioid epidemic and deployed resources to those locations, focusing on enforcement, education, and awareness. The primary goals of the initiative were to create an open dialogue with residents, reduce crime, and address the impact of the opioid crisis was having on those communities. However, a careful evaluation of this seeming natural deployment of resources, does not do a careful evaluation for the community nor its officers as part of their training that, by the own reporting, the Nassau County Police Department has determined that the overdose rate by race from 2014 to 2018 shows the overwhelming proof is that opioid overdoses are largely a plight being experienced by the white communities in Nassau County. Those numbers are as follows:

OVERDOSES BY RACE *2014 - 2018*

Caucasian	**85%**
African American	7%
Hispanic	4%
Other	3%
Unknown	1%

On December 17, 2018, Legislator Siela Bynoe introduced the Mental Health First Aid law, which was unanimously adopted by the Nassau County Legislature. According to the Report:

The general purpose of the law is to enable Nassau County employees to deal with acute mental health issues they may encounter in their interactions with individuals in the community. The Nassau County Mental Health First Aid law applies to full-time and part-time County employees, who provide services directly to the public, including specifically designated corrections personnel, social services and human services staff, emergency medical technicians, and emergency management personnel. It requires all such employees to receive an eight-hour course of mental health first aid training. Mental Health First Aid is recognized as a comprehensive evidence-based training program designed to teach participants to identify, understand and respond to signs of mental illness. Specific Mental Health First Aid curriculum content was developed in response to the opioid crisis. Since its creation, the program has been adopted in 21 other states providing training to police officers, first responders, corrections officers, social workers and human services professionals nationwide. (The Nassau County Opioid Crisis Action Plan Task Force Report page 49)

While clearly outlining focus on Schools to educate students and Parents and Guardians so that family and persons related to youth who may fall prey to the opioid crisis nothing is referenced in the

report or has been provided to the community groups and stakeholders about the education of officers and the level of that education which is regularly made part of academy training and in-service training on any regular basis. Further, nothing in the report addresses the involvement of police officers as addicts and the level of education provided to officers to avoid and identify the signs of opioid addiction by other members of the Nassau County Police Department.

It is recommended that the disparities of drug overdoses by race as detailed in The Nassau County Opioid Crisis Action Plan Task Force Report be examined and statistically evaluated with the drug arrests numbers for opioid drug offenses by race and make those findings part of the course material for all officers in addressing implicit bias and stereotypes. Further, it is recommended that qualified drug counselors serve as instructors to police to provide ongoing training as to the recognition of opioid addiction, overdose and use of opioids by Nassau County residents and their fellow officers.

8. Ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness

The police departments of Nassau and Suffolk should implement ongoing, top-down training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

Law enforcement scope of experiences facing the police departments in the two counties on Long Island are ever-changing and police leaders must be able to recreate ways of conducting effective and fair policing without increasing the military type tactics and acts of over policing experienced by communities of color. This is crucial, especially in light of the documented evidence of racial disparities in such areas as traffic stops and arrests, that mark the existence of not only explicit racism within the SCPD and NCPD, but of implicit bias as well. One of many examples of this is that Nassau police stop African American drivers 5.3 times more than white drivers even though African Americans comprise 11.4% of the Nassau County population and whites comprise 59%. In Suffolk, the vast difference of how traffic stops, auto searches and treatment of passengers for African Americans and Latino motorist was documented by the numbers released by its police department.[1] Nationally, all police agencies are seeing significant opportunities in the availability of new technology – especially in the area of "militarizing" their forces. This presents the danger of treating the civilian population as "the enemy" and leads to the growing use of violence against civilians. This has resulted in an increase in the numbers of police killings of people of color nationally in the past 40 years. Unfortunately, it has not been possible to determine how many people of color have been hurt or killed by Nassau County police officers because the county has failed to collect and / or to present such information where race was an issue. In order to address this situation, it is imperative that members of the community, especially people of color who have traditionally had adversarial relationships with law enforcement have direct input into the leadership training of police officers.

In responding directly to EO 203 and questions to police forces posed by that document, we supply concrete recommendations to three specific points that pertain to implicit bias and cultural responsiveness and how these issues can be incorporated in the SCPD and NCPD training curricula:

- The NCPD and SCPD are legally required, with the direct input and advice of advocacy groups that represent the viewpoints of communities of people of color that have

traditionally had adversarial relationships with law enforcement to work together to establish and implement effective leadership training goals and a curriculum that addresses how the police engage in crowd control in general, and specifically how the police engage in crowd control when people of color are peacefully protesting to insure that there is no bias by police officers.

- The NCPD and SCPD are legally required, with the direct input and advice of advocacy groups that represent the viewpoints of communities of people of color that have traditionally had adversarial relationships with law enforcement to ensure that all of the cultural norms and informal processes within all of the police agencies on Long Island are reflected in their formal rules and policies by overseeing the creation of effective leadership training goals that address issues of bias and cultural diversity and related topics in ways that can build trust and legitimacy in diverse communities.
- The NCPD and SCPD are legally required with the direct input and advice of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement to establish and implement effective leadership training goals and curriculums that specifically addresses the legal reporting criteria for the use of force in general, and specifically when white police officers use force against people of color.

Clearly, members of the Suffolk County and Nassau County public, especially people of color who have traditionally had adversarial relationships with law enforcement have the right engage their police department and evaluate their training regimens so as to address and confront any form of police abuse not limited to discrimination including implicit bias in the SCPD and NCPD so as to build trust and legitimacy with the community members who serve as police officers.

9. Require both basic recruit & in-service training on policing in a democratic society, to include a detailed historical focus on slavery, the oppression of communities & persons of color, and the historic role policing has played & continues to play in our society

Not only is it important for police officers serving the people of Long Island to have a high level of understanding of their current role in our democratic society, but it is critical that every officer serving in Long Island policing agencies be fully informed of the disconnect which has existed and does exist between police and communities from an historical perspective. Nothing has been made available as to course outline (if any), the resource materials (if any) and / or the required testing (if any) for its officers as to instruction, recognition and response required for individual officers about their roles in today's society and understanding of those roles. While this may exist, the disclosure of the full course materials including syllabus, although sought, was never provided to the stakeholders who requested that information.

The history from a Black perspective as to racism, slavery, economic injustice all of which are relevant to the underlying aspects of Executive Order 203. The need for all officers to be fully immersed in lessons and discussion of the slave patrols in our nation and the KKK here on Long Island. For instance, basic recruit and in-service training should be provided as a required course of study that slave patrols existed in our country and that Slave patrols had three primary functions:

1. to chase down, apprehend, and return to their owners, runaway slaves
2. to provide a form of organized terror to deter slave revolts; and,
3. to maintain a form of discipline for slave-workers who were subject to summary justice, outside of the law, if they violated any plantation rules.

The further education must include that the Slave Patrol usually consisted of three to six white men on horseback equipped with guns, rope, and whips. "A mounted man presents an awesome figure, and the power and majesty of a group of men on horseback, at night, could terrify slaves into submission," writes Sally Hadden in her fine and useful book Slave Patrols: Law and Violence in Virginia and the Carolinas. As part of that education and training the police officers should be instructed that during the Civil War, the military became the primary form of law enforcement in the South, but during Reconstruction, many local sheriffs functioned in a way analogous to the earlier slave patrols, enforcing segregation and the disenfranchisement of freed slaves.[1]

References to the history of slavery in the United States is a must in order to understand the foundation of our society.

The telling of the legal and consistent determination of disrespect of persons of color, especially Black persons in America but be brought to the understanding in a very formal way by all Long Island policing agencies. Included in this history must be a firm education about the United States Constitution.

Likewise, all police officers need to understand where the concepts of persons of color, and especially Black people were considered as less than, and the Black Lives Matter movement is a historical statement not a comparison to police or any other person, race or vocation.

10. Encourage and incentivize higher education for law enforcement officers

The GI Bill is one of many programs which allow veterans to access higher education. We recommend that Long Island policing agencies implement a similar program, in partnership with local academic institutions, in order to encourage and incentivize higher education for all law enforcement. As was similarly discussed in recommendation 5.4 is that the incentivization of higher education for law enforcement officers affirms a set of values which is grounded firmly in a willingness to learn and a desire to understand. These values should underpin any policing which takes seriously its role as a public servant. The other benefit of incentivizing higher education for law enforcement officials is that it introduces them to a wider array of perspectives and forces them to think beyond the necessary training to become an officer.

The higher education program does not have to be limited to a study of criminology or criminal justice — this is important to state because law enforcement officers are more than just their job. We

[1] Sally E. Hadden, "Slave Patrols: Law and Violence in Virginia and the Carolinas," Harvard University Press, 2001

are the sum of all of our parts, and our job is only one of many. Degrees in a variety of subjects can inform best practices for law enforcement and could help officers to find roles within the force that better suit their interests and passions (e.g., data analysis, marketing, PR, etc.). More than anything, the ability to study subjects that are not just related to the law enforcement job affirm the humanity of law enforcement officials and therefore strengthen the legitimacy of a human-centered set of institutional values, in which both the community members and the law enforcement officials are seen as whole persons.

Additionally, since the goal is to decrease crime, which would hopefully result in a decrease of necessary police officers, incentivizing higher education that pushes beyond the boundaries of criminology helps at a structural level to shift jobs from law enforcement, which leaves more budget to be allocated to community programs and proactive, preventative solutions to poverty-induced crime.

A. Create a loan repayment and forgiveness incentive program specifically for policing

In order to implement Recommendation 10, it is critical that the police departments subsidize and forgive higher education loans, as a means of further incentivizing higher education for police officers.

11. Support the development and implementation of improvised Field Training Officer Programs

Field training is the bridge between the theoretical and practical training presented in the police academy and the application of that instruction while interacting with the public as a professional police officer. Included among the issues that will increase the effectiveness of a successful Field Training Program would be an adequate excessive span of control for supervisors and officers (1 field training officer to 1 probationary police officer), documented training for the police officers and supervisors, quantifiable measures of productivity goals, and a sufficient evaluation process. The findings of the current research suggests that, in recent years, newly graduated police officers assigned to Patrol, which focused on crime reduction, were not provided with sufficient field training, oversight, and mentoring. Therefore, it is recommended that any field training program should improve the ability of newly graduated police officers to develop the skills necessary to facilitate the goals of the agency with emphasis on current trends that focus on de-escalation techniques, implicit bias encounters, stop & frisk, use of force, the handling of EDP's and the proper treatment of the homeless community.

Effective field training increases the prevalence of exceptional police officers, which reduces the frequency of misconduct and corruption, as well as the associated financial costs and public perception of legitimacy. As previously mentioned, field training is an integral part of developing professional police officers. Throughout the United States (US), there have been many different models employed for conducting field training for police officers. In 2003, the US Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) introduced a more contemporary approach to field training new officers, titled, Police Training Officer Program (PTO) also known as the Reno Model. The PTO program focuses on developing an officer's learning capacity, leadership abilities, and problem-solving skills. This approach contrasts traditional field training models that overemphasize mechanical skills and rote memory capacities. While these static skills are a necessity in police work and are integral to any training program, they constitute only one set of skills needed in contemporary policing. At the core of the PTO program is the use of Problem-Based Learning (PBL) based on adult learning strategies. PBL is a learner-centered teacher method that uses problem solving as the vehicle for learning. In addition, the San Jose Model, established in the early 1970's, provides a good foundation

for revising the current FTP. We recommend that the NCPD and SCPD implement an FTP that incorporates the best practices identified in both the San Jose Model and the Reno Model.

The selection and training of Field Training Officers (FTO) are integral to the success of the FTP. Therefore, the process for selection and training of FTO's should be comprehensive. FTO's will provide the oversight, instruction, and mentoring to facilitate proper development of the skills necessary for a professional police officer.

12. Support the development of a broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs

Need for Field Training

Field training is universally described as the most important stage in the process of becoming an independent police officer. A field-training program should be an integral part of recruit training and that training bridges the gap from theory of the classroom to the practical application on the street. Research indicates that FTO programs have been very successful and provide a smooth transition from the classroom to the street. A strong foundation includes a well-designed field training manual, written objectives, standardized evaluation guidelines, and leaders willing to keep the program up-to-date and to never compromise its integrity.

A study conducted by McCampell (1986) revealed that more than 300 responding agencies documented the reasons most frequently cited by the 188 agencies that reported having established FTO programs:

- The need to standardize recruit training
- Personnel needs such as, standard evaluation techniques and regular evaluations by FTOs, to validate agency hiring, retention, and termination decisions
- Reduction of civil liability complaints against agencies and personnel.

A similar study by Molden (1987) found the following:

- A structured, standardized learning experience for recruits preparing them for solo patrol
- The transfer and application of classroom training to real problems and situations encountered on the job
- The importance of exposing a recruit-trainee to an FTO who serves as mentor, guide, advisor, and role model
- Documented evaluation of recruit performance to validate selection procedures, inform retention and termination decisions, defend against false equal employment opportunity and liability charges, and determine readiness of officers for solo patrol.

Police officers that participate successfully in an FTO program will, as a consequence of having been trained under standardized conditions, have improved self-image, perform better, and be better able to contribute to the safety and welfare of citizens. Conversely problematic officers will be more readily identified and may be provided with corrective feedback or terminated, thereby reducing agency liability. Proper theoretical and practical techniques can be taught and understood in an academy. However, field training provides the opportunity for realistic application of techniques with an opportunity for the mentoring, guidance and corrective feedback necessary to facilitate proper development. Academy training can illustrate how things are supposed to be; effective FTO programs demonstrate proper police activities & operations.

As police officers are the foundation of a police agency, the development of the officer is a key component of the ability of the agency to succeed in its mission. Primary development occurs during recruit training, which, in the past few decades, has shifted toward the realm of profession. Modern policing within most major US cities that adhere to national standards provided by Commission on Accreditation and Law Enforcement Agencies (CALEA) have increased the level of training, where the title of police officer may objectively be described as a profession. Furthermore, the types of specialized units that exist within many large agencies require levels of expertise that exceed the training required for many professions. This high level of training and expertise is a contributing factor in the recruitment of officers from large law enforcement agencies to other organizations in both the public and private sector. In order for police officers to receive the training to achieve expertise, they must first overcome what is commonly thought of as the most difficult obstacle in joining the police profession—the transition from recruit to police officer during the initial assignment after completion of training.

For a variety of reasons, many police agencies have a difficult time with retention of officers, as the prevalence of officers resigning during the first few years of service tends to be higher than those that resign at other stages in their careers. For some officers, this may be due to the overwhelming nature of the transition from a controlled environment to the field. Other officers may find the transition difficult due to the lack of proper field training. Many academics and practitioners agree that the training and guidance received in the first six months to a year subsequent to the completion of initial training is as, if not more, important than the initial recruit training. Once an officer leaves the relative safety of the recruit training program, he or she will be faced with a constantly changing environment, including the unpredictability of engaging with members of the public. Officers are responsible for the safety and security of others and have the authority to use deadly physical force and infringe upon people's civil liberties (custody and / or arrest). Similar to various other professions that require continued education and training, police officers are required to maintain and improve their skills and abilities.

Field training is paramount to providing the new police officer with the guidance and feedback necessary to properly apply the training received as a recruit to 'real-life' situations. Proper field training enhances an officer's adaptability and resilience, providing that officer with the skills and tools necessary to respond appropriately to the constantly evolving environment of policing. In order to provide adequate field training, an agency must first identify qualified and motivated personnel. The model for Field Training Officers (FTO) and Field Training Supervisors (FTS), based on the model provided by COPS is discussed in more depth below.

A. The Nassau County Police Department should provide funding to incentive agencies to update their Field Training Programs in accordance with the new standards.

Each of the 17,000 agencies in the nation should have an opportunity to request grant funding through the COPS office for the necessary personnel, equipment, and training to develop and design an adequate FTU program. As emphasized above, an adequate FTU program is vital to the development of a rookie police officer to increase community engagement, reduce lawsuits in an agency due to poorly mentored officers, and foster an appropriate career path for those entering an agency from their academy. Currently the COPS office offers many grants for Community Policing programs that foster a collaboration between the police and the community. More should be done to provide funding for a FTU program under the same strategy which is being done with Community Policing. Currently agencies can apply for as much as a two-year grant for $750,000.00 if they subscribe to an adequate Community Policing Model. Much should be done to replicate this grant process so agencies may have an adequate FTU program that would provide similar resources for Training, Equipment and Evaluation.

Officer Wellness and Safety

Section Summary

The loss of public confidence in police departments across the United States due to the killing of George Floyd, Breonna Taylor and others has exacerbated the need for police officers (and their agencies) to confront their mental health and wellbeing. Long Island police agencies face similar challenges that agencies and their officers face across the country. They confront (1) organizational stressors, (2) challenging work schedules, (3) conflicts with policing and a balancing family life and (4) the potential of officer suicides. The question now is to what extent are Nassau and Suffolk police agencies prepared to provide officers with the resources they need in order for them to be able to effectively serve the community, especially communities of color.

In light of these acknowledged stressors, recent guidance for Governor Cuomo's Executive Order 203 asked New York State police agencies to consider four questions around officer wellness and safety when developing their police reform plans: (1) What steps can a department take to promote wellness and well-being within the department? (2) Are there ways to address officer wellness and well-being through smarter scheduling? (3) How can departments effectively and proactively address the mental health challenges experienced by many police officers throughout their careers? and (4) How can the department address the well-being of an officer after a traumatic event?

A physically and mentally healthy police force is one that can respond to the needs of our communities with awareness, honor, and respect. For that reason we are making recommendations for all Long Island policing agencies to include in their police reform plans.

The Proposal

Implement policies and practices that ensure the mental well-being of police officers.

Components of the Proposal

This proposal includes the following components:

1. Long Island Police Agencies must adequately identify the extent of the problem to be able to provide proper wellness programs for officers
2. Police Agencies must address shift scheduling issues
3. Departments must consistently address officers' mental health issues & mental well-being
4. Handling traumatic events

1. Long Island Police Agencies must adequately identify the extent of the problem to be able to provide proper wellness programs for officers

All forty-two (42) police agencies[1] on Long Island should consider how officer wellness is being incorporated into each department and whether their officers are being offered adequate programs focused on well-being, self-care, counseling, and intervention to support their wellness and well-being.

Both counties have acknowledged that officers need some help, but it is unclear if their efforts are effective. In 2019, Nassau County (NC) Local Law 298-19 created a NC Health & Wellness Division within the police department. The Suffolk County Police Department hasn't created a division, but does have a full time Chaplain, Employee Assistance Section and Medical Evaluation Section. We are unsure if these divisions and sections are able to effectively address the extent of the mental health challenges their officers are presently confronting. In addition, all of the police agencies should be mindful of the added stressors that minority officers, particularly African-American and Hispanic officers confront from their colleagues and their community. Therefore, we recommend the following:

- An **independent organization of Mental Health Professionals** should address the police officers' mental health and wellness in Nassau and Suffolk Counties.
    - Bi-weekly 45-minute therapy session (telehealth) with a mental health professional for the well-being of the officer.
    - After an officer is involved in any physical altercation on the job, they must speak to a mental health professional that the department will have made available within 48 hours.
    - The department will provide officers with resources and education to help them identify, address, and improve their stress and trauma reactions.
- In the event of an emergency:
    - The police department shall still have the authority to monitor and assess the mental health of officers.
    - Should the police department suspect that an officer is having an emotional crisis, the supervisor shall maintain the authority to mandate mental health services immediately. They will suspend all work duties during this time.
    - The mental health professional maintains the authority to restore the officer to full duty.
    - Long Island police agencies should include in their standard procedures or department policy a requirement that each officer (and their family) who has experienced a traumatic event speak to a professional.

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[1]See list in Appendix 1 (end of this section). Only 9 police agencies on Long Island are accredited under the NYS Office of Public Safety.

2. Police Agencies must address shift scheduling issues

All Nassau County and Suffolk County police agencies should consider how shift scheduling impacts their officers' well-being and efficiency. Departments must determine whether the current staffing patterns give officers enough down time to have a balanced family life or if it is creating excess stress for the officers.

Managers must determine whether officers are working too many shifts within a 24–48-hour period. For example, the police department must determine if it is possible for them to limit back-to-back shifts and overtime and still adequately serve the community.

Long Island police agencies should consider using modern technology, if they are not already, to better manage the scheduling process. For example, there are five Police Officer Scheduling Software Systems they could consider implementing at reasonable rates:

1. ScheduleAnywhere (www.scheduleanywhere.com)
2. Connecteam (www.connecteam.com)
3. InTime (www.intime.com)
4. SnapSchedule (www.snapschedule.com)
5. VCS Software (www.vcssoftware.com)

By using technology, the departments can easily determine where there is a need to adjust shifts. Also, they should be more readily able to monitor the correlation between excessive shifts/overtime and officer stress, fatigue and increased community complaints.

To assure the betterment of both the officer and the community members they serve we recommend that:

- Each officer should be given at least 4 hours away from the job between shifts and a cap on overtime hours to prevent officer fatigue.
- The agencies consider using current technology to ease the problem of scheduling shifts for the department.

3. Departments must consistently address officers' mental health issues & mental well-being

One of the most important ways to address mental health challenges among officers is to increase awareness, promote education, and identify the existing barriers that prevent officers from getting the treatment they need.

Research has identified four barriers that impact access to mental health services: "inability of an officer to identify when they were experiencing a mental illness; concerns regarding confidentiality; belief

that psychologists were unable to relate to their occupation; and the notion that officers who seek mental health services may be unfit for duty."[2]

Implementing annual mental health check-ups for all officers and civilian staff is one way to address mental health in a setting that officers feel comfortable in. One program was established by Booker Hodges, PhD and was met with little resistance from officers.[3]

Programs through National professional organizations that provide mental health and wellness training to police officers should be considered by the agencies, such as Blue H.E.L.P., Valor for Blue, and Blue Wall Institute.[4] For example, the Preventing Violence Against Law Enforcement and Ensuring Officer Resilience and Survivability (VALOR) Initiative (www.valorforblue.org) is an effort to improve the immediate and long-term safety, wellness, and resilience of law enforcement officers. Through a multifaceted approach that includes delivering no-cost training and professional education, conducting research, developing and providing resources, and establishing partnerships that benefit law enforcement officers, VALOR seeks to provide our nation's law enforcement officers with innovative, useful, and valuable resources.

Implementing mandatory counseling sessions for officers who have experienced on the job trauma or violence is another method of intervention that could alleviate the psychological distress officers face, as well as help them to develop better coping mechanisms for managing their mental health.

We believe new educational training to make an officer more effective at their job in the area of cultural humility is also of utmost importance to safe and effective policing. Our recommendations include but are not limited to, the employment of social workers at both the academy and in-service training level, training in post-traumatic stress disorder and its signs and symptoms, and engagement with system-impacted individuals. Resources can include, but are not limited to:

- Cognitive Behavioral Intervention modalities taken from the curriculum of social workers that include, but are not limited to:
    - Thinking for a Change
        - To think about situations differently; not focusing on right or wrong
        - To build and reinforce a person's empathy
        - Motivational Interviewing
        - Anger Management

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[2] "Most Police Officers Never Seek Mental Health Care, despite Apparent Need," Healio, accessed February 7, 2021, https://www.healio.com/news/psychiatry/20201016/most-police-officers-never-seek-mental-health-care-despite-apparent-need.

[3] https://www.police1.com/newsletters/leadership/policeone-leadership-briefing-4-25-19/

[4] https://bluehelp.org/resources/training-and-resources/

Handling traumatic events

Superior / Commanding Officers must monitor their officers and make sure they know that it is "human" to feel uncomfortable about a traumatic event. They should recommend that officers seek someone to speak to about their feelings after a traumatic event. For, officers believe there is a stigma to seeking mental health counseling.

A recent Newsday article (8.17.19), stated that, "[p]olice departments on Long Island are expanding mental health services for officers, including hiring and training more staff to provide outreach, amid a record number of NYPD suicides." The Nassau and Suffolk police departments have not recorded the same elevated suicide rates but are focused on increasing efforts to get this message out to their members: "There's no shame in seeking help when dealing with the stresses of police work or personal problems." Nassau County Commissioner Ryder shared that 16 hours of wellness training would be added to the police academy curriculum and present officers would receive additional training. While Suffolk County Commissioner Hart shared that Suffolk had expanded a police union peer support effort to all of its police unions, it would provide a daylong training on suicide awareness and would create an internal mental health resources website to be available to officers 24 hours a day.

We also recommend that:

- A Long Island wide directory of resources be created for sworn officers and civilian staff for all Long Island police agencies (42) to access
- Agencies should track the number of officers who commit suicide and the circumstances surrounding these situations
- The police agencies should utilize the CRI-TAC Collaborative Reform Initiative of the Department of Justice's (DOJ) Community Oriented Policing Service (COPS Office)[5] to assist with officer safety and wellness (OSW) topics such as:
    1. Peer Support
    2. Wellness Unit
    3. Employee Assistance Programs (EAP)
    4. Resiliency
    5. Family Wellness
    6. Suicide Prevention and
    7. Chaplaincy Programs

  For example, The Warren (Michigan) Police Department (WPD) requested assistance in developing and implementing a comprehensive officer safety and wellness strategic plan to include a review of policies and practices, training updates, and resources for department personnel.

  CRI-TAC provided **"a blueprint on how to break the cycle of hypervigilance, vicarious trauma, and post-traumatic stress disorder."**

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[5] www.collaborativereform.org

- The Long Island police agencies consider applying for the Fiscal Year 2021 Law Enforcement Mental Health and Wellness Act (LEMHWA) program funds to provide mental health and wellness programs to their officers.[6]
- While some of the police agencies have been accredited by the NYS Office of Public Safety, we recommend that the agencies consider accreditation by a more inclusive entity, such as CALEA (www.calea.org).

Conclusion

We believe that making these recommendations a part of police culture will not only create safer situations for the communities they serve, but healthier officers. It will also help to destigmatize the often ignored, but vital area—a police officer's mental health. These recommendations will also serve to satisfy Governor Cuomo's Executive Order 203 as it relates to officer wellness and safety for all police agencies on Long Island.

Appendix 1

List of Long Island Police Agencies

Starred (**) denotes police agencies accredited by the NYS Department of Public Safety.

Nassau County (22)

Nassau County Police Department
Nassau County Sheriff's Office
Centre Island Village Police Department
Floral Park Village Police Department
Freeport Village Police Department
Garden City Village Police Department
Glen Cove City Police Department
Great Neck Estates Village Police Department
Hempstead Village Police Department
Kensington Village Police Department
Kings Point Village Police Department
Lake Success Village Police Department
Long Beach City Police Department
Lynbrook Village Police Department
Malverne Village Police Department
Muttontown Village Police Department
Old Brookville Village Police Department
Old Westbury Village Police Department
Oyster Bay Cove Village Police Department
Port Washington Police District
**Rockville Centre Police Department
Sands Point Village Police Department

Suffolk County (20)

**Suffolk County Police Department
**Suffolk County Sheriff's Office
Amityville Village Police Department
Asharoken Village Police Department
East Hampton Town Police Department
**East Hampton Village Police Department
Head of the Harbor Village Police Department
**Huntington Bay Village Police Department
Lloyd Harbor Village Police Department

Appendix 1 (cont'd)

List of Long Island Police Agencies

Starred (**) denotes police agencies accredited by the NYS Department of Public Safety.

Nissequogue Village Police Department
Northport Village Police Department
Ocean Beach Village Police Department
**Quogue Village Police Department
**Riverhead Town Police Department
Sag Harbor Village Police Department
**Shelter Island Town Police Department
**Southampton Town Police Department
Southampton Village Police Department
Southold Town Police Department
Westhampton Beach Village Police Department

Permanent Equity & Safety Task Force

Section Summary

The writers of the People's Plan recommend the establishment of a permanent Equity and Safety Task Force, with authority and funding from the Nassau and Suffolk County Legislatures. The purpose of the Task Force will be the continued improvement of community-based policing and community safety beyond the April 1st Governor-mandated Police Reform plan submission, so that the focus on community safety does not dwindle in priority or from the public eye. The Task Force will use an equity framework to guide its "continuous reinvention" work so that ultimately, both Counties can enable environments across Long Island where all residents feel safe, supported and able to thrive.

Recommendation:
Develop a Permanent Equity & Safety Task Force

"Continuous Reinvention" is necessary so that government and public services remain relevant and effective for its residents. Similar to quality / performance improvement in other sectors, continuous reinvention is a framework that enables a comprehensive review of a particular system, institution or initiative to understand what is working and what is not. If, for example, the lack of health care providers in a given community is exacerbating health indicators for subsets of the community, using a continuous reinvention framework, leaders would not simply recommend the addition of more personnel to a health care center. Instead, they may implement a reimagined approach to health care services, one that is more responsive and accessible to marginalized communities and addresses their specific needs. Continuous reinvention requires that we study and assess initiatives in perpetuity under the theory that, as people's needs change, so should the systems and institutions on which they rely.[1]

At its core, this continuous reinvention framework should ensure that all communities are provided the necessary conditions to be and feel safe, have their needs met, and ultimately, thrive. Applying an equity lens to this reinvention ensures that initiatives and innovations benefit all populations equitably and prevent displacement or disparities in access among race / ethnicity / gender / income and other demographic indicators. It requires that data on key indicators be collected and reviewed across these key indicators.

The Equity and Safety Task Force would have a singular mission to assess whether institutions,

[1] Image is taken from the Lean Six Sigma framework: "Lean/Six Sigma Yellow Belt Training," Programs & Events, accessed January 20, 2021, https://www.vhha.com/programs/event/leansix-sigma-yellow-belt-training/

systems and programs aimed at community safety and well-being are experienced equitably across Long Island communities—and to make concrete recommendations for improvement as needed. Each County would establish a Task Force with the expectation that research is conducted, community collaboration is normalized, and innovation within all realms that affect public safety become routine. In this regard, Executive Orders from the State Government will not be the impetus for innovation. Instead, Long Island will be on the cutting edge in ensuring that its public safety infrastructure is meeting the ever-changing needs of its community members.

Proposed Model

We recommend an Equity and Safety Task Force be established in Nassau County and Suffolk County respectively. This Task Force should be a permanent one, attached to each County's Public Safety Committee but with unique members, lending it authority and visibility as part of the Legislature's commitment to improving public safety. This alignment will ensure Task Force members' access to Committee members / legislators and the ability to recommend and hold public hearings on key public safety topics. With regard to police reform, Task Force recommendations will go directly to the Committee, given its jurisdiction over the police departments and correctional systems. This Task Force should be independent of any police department to ensure its objectivity.

Beyond police reform, this Task Force in its permanency would also apply a holistic view of equity to community development -- identifying County-specific opportunities that advance economic and social well-being for all populations and making concrete recommendations to the Legislature to enable these opportunities.

Membership of each County Task Force should be diverse across race / ethnicity, age, and gender identity, as well as skill sets and previous personal and professional experiences. The Task Forces should comprise community members and civil servants who hold a deep interest in improving community safety and well-being, and are committed to equity across all populations. ***We recommend at least 2 members with experience in social services, at least 2 members with experience in policy development and / or advocacy, at least 2 members with experience working in the public sector, at least 2 community members. Membership must include representation from BIPOC and trans communities, at a minimum. All members must be residents of the County on whose Task Force they serve.***

At the core of its work, the Task Force would address the following:

- Continued monitoring, feedback and review of reforms to policing protocols, practices and infrastructure. If Nassau and Suffolk Counties and their respective leaders are serious about enduring and impactful reform, they must acknowledge that the work to enable true and equitable community safety does not end when the Governor-mandated Police Reform plan is submitted on April 1st.

    - Key work steps would be to review police department policies, assess implementation of key practices (and related data) to evaluate whether biases in policing persist, interview key informants, including community members, and make concrete recommendations to reduce bias and improve fair implementation of policing across each County.

- Soliciting ongoing feedback from community members (i.e. qualitative data), which is essential to understanding how / whether police department reforms have been effective, particularly from measures of safety and equity. ***It is critical to the Task Force's efficacy that there are objective representatives enabled to solicit, review and analyze feedback from community members against measured goals and outcomes of police reform. In addition, the Task Force should solicit recommendations from***

community members on unexplored or refined ideas on equitable community safety initiatives.

- Key work steps would include anonymous surveys, focus groups, in-depth interviews and Town Hall-style meetings with community members to better understand their interactions with police personnel in various settings. Summaries of this feedback would be made available to the Legislature, police departments and public.

- In addition to qualitative feedback from community members, this Task Force should be equipped and have authority to request, obtain and review / analyze quantitative data on policing and other relevant indicators for its respective County. All data sources should be explored, principally those from County and local police departments, public agencies and other institutions that capture reliable data relevant to community safety. ***We recommend the Task Force have authority to solicit and efficiently obtain essential data from any public agency, including County and local police departments, and partner with a local academic institution(s) to enable rigorous data analysis.***

- Key work steps would include in-depth review and analysis of key data points related to policing including traffic stops, 911 calls, arrest data, etc. by race / ethnicity and other demographic categories.

- Given the national, regional and local focus on police reform across the U.S., there is regular dissemination of analyses related to innovations in public safety. The Task Force, leveraging partners as needed, should identify and review best practice models in equitable community safety initiatives in other parts of New York State and the U.S. and assess whether any are applicable and ripe for implementation in Nassau and/or Suffolk Counties.

- Key work steps would include literature reviews and discussions with experts on planned and implemented police reform initiatives in regions across the country. These assessments would be presented to the Legislature and public

Beyond police reform, the Task Force will use a comprehensive lens and equity framework to identify opportunities to strengthen economic and social determinants for communities across Long Island. While the Legislature often focuses on laws and regulations to embed within the current economic system and social fabric, this Task Force will be able to take a broader, aerial look at all systemic aspects of community life -- from education to employment, public institutions and social determinants such as housing and food supply -- to evaluate and recommend initiatives that advance individual, family and community well-being equitably.

- Key work steps will include reviewing key data points on County employment / unemployment, housing stability / instability, equity in access to quality education and health care services and evaluate the impact of these services / institutions, as needed. The purpose of this review will be to assess disparities across communities and race / ethnicity / gender, and make concrete recommendations to remediate disparities and move closer to -- and eventually achieve -- equity. These recommendations may result in pilot initiatives in one or both Counties.

Example: The City of Durham, North Carolina recently established a community-led initiative focused on enduring public safety known as the Durham Community Safety and Wellness Task Force. Endowed with an initial $1 million in funding, the Task Force was set up to "examine the [City's] public safety and community wellness needs" and recommend initiatives that advance public safety in an equitable manner. Included in the Task Force's mission is to evaluate school resource officer programs, non-police responses to mental health-related calls, drug courts, and violence interrupter programs in Durham to assess opportunities for refinement or scaling up, as appropriate. Through its by-laws[2], this Task Force is established for a minimum of 2 years, with the opportunity to extend its term by six months. The Task Force by-laws describe its mission in detail.

Implementation in Suffolk County

For Suffolk County, we recommend the current Police Reform Task Force be extended beyond April 1st, 2021 and re-branded as an Equity + Safety Task Force. Membership composition of the current Task Force should be reviewed according to key criteria mentioned earlier in this section. Additions or replacements to the group's membership should be handled in a consensus-based process.

Implementation in Nassau County

For Nassau County, we recommend the PACT continue but with significant revisions to membership to ensure diverse representation and improvements to its approach to soliciting and reviewing public input.

Separation between the Task Force & Civilian Complaint Review Board

This Equity and Safety Task Force must be distinct from a Civilian Complaint Review Board, the latter of which would be focused solely on reviewing and handling civilian complaints of police officers and staff.

[2] "By-Laws Of DURHAM COMMUNITY SAFETY & WELLNESS TASK FORCE," accessed January, 23, 2021, https://cityordinances.durhamnc.gov/OnBaseAgendaOnline/Documents/ViewDocument/Final-Published%20Attachment%20-%2013824%20-%20OTHER%20-%20DURHAM%20COMMUNITY%20SAFETY%20_%20WELLNES.pdf?meetingId=369&documentType=Agenda&itemId=15078&publishId=64805&isSection=false

Key Considerations and Obstacles

The Equity and Safety Task Force will be a link between community residents and the Legislature to ensure there is bi-directional feedback and rigorous study into effective models of community safety. Community safety should have buy-in from all sides, instead of existing as a hierarchical enterprise. This Task Force will prioritize opportunities to brief the public on its periodic findings and recommendations.

This work will not be easy, but it is, of course, worthwhile. At the outset, we should acknowledge and address key obstacles that may hamper this work, including:

- Non-compliance or collaboration from County and/or local police departments and partners. We cannot enable change if all key players are not at the table. We must revise the power structure related to community safety with community residents integrated as an essential component.

- Lack of priority given to the topic of community safety by County Legislatures. Significant reform and improvements to community safety across Long Island will require sustained commitment, innovation, funding, and rigorous analysis. Any change in focus will threaten the efficacy of the collective goal of advancing equitable community safety.

- Inability to obtain essential data required to assess and evaluate key systems and institutions that affect community safety and well-being.

- No or limited funding available to pilot innovations in community safety. Not all reform requires funding but some may. The Task Force may explore all permissible funding options and should be permitted to cast a wide net among public and private sources (e.g. foundations).

Conclusion

The County Legislature in Nassau and Suffolk should establish a permanent Equity and Safety Task Force to ensure that the publicly-funded community safety approach meets the needs of its residents in perpetuity. Without consistent and continuous assessment, informed by rigorous data review and community feedback and viewed through a lens of equity, we will not have a community safety approach on Long Island that meets the needs of all its residents.

Permanent Equity & Safety Task Force

A permanent, County-based Equity and Safety Task Force should be create and use an equity-informed, "continuous reinvention" framework to assess the impact of safety reforms and recommend. This means the reform and reinvention mandated by Governor Cuomo's Executive Order is always ongoing.

Research Based Reinvention

1. Define the problem and analyze root causes or issues.
2. Measure the current performance of practices that have been identified as a problem.
3. Determine and implement improvements, analyzing if those changes are actually producing improvements.
4. Maintain the improved process, then define any problems with the new process. ***Begin again at step 1.***

Proposed **Powers and Duties**

1. Review data on **key safety indicators.**
2. Solicit **community feedback** and dialogue
3. **Identify best practices** in safety innovations in the U.S.
4. Recommend new initiatives and **assess impact**

Benefits:

Create a persistent focus on whether benefits from reform have positive and equitable impacts **across communities and populations.**

Create reform from a holistic team of Task Force members with **diverse set of experiences** and perspectives collectively focused on community safety

Closing Thoughts

This summer, many new voices joined in the fight against police brutality by taking to the streets to show their support for Black lives and to demand that the current state of policing change. The Governor heard your call and created Executive Order 203, which requires local governments to work with the public to address racial bias and disproportionate policing of communities of color. In an unprecedented manner, numerous organizations, community leaders, and individuals came together to collectively address ways policing on Long Island can be more equitable and community-oriented. To construct The People's Plan, we invited the public to join our workgroups and discussed some of our recommendations with lawmakers to determine what barriers we may face.

Now that the protests have died down, you need to call your lawmakers and share the proposals from The People's Plan. You need to spread the word, because we need a system that doesn't protect racist and biased police officers. It's time to change the system because it was never meant to make all of us safe. The current state of policing doesn't prevent crime but merely provides a response to crime. We do not need more officers in our communities; we need programs that will uplift our people, promote equity, and help people break generational cycles because we've only been out of segregation for fifty three years. When American Colonizers needed a work force, they used Black people as slaves, and when that became illegal, the war on drugs became their next tool, and then mass incarceration. When white people began to experience the opioid crisis, they weren't met with a war but with programs designed to help them.

Now is the time to stand up for Black people and correct the wrongs of America's history. It's time that we change this system. Many systems in our country have changed through the years, and policing shouldn't be exempt.

The police force is filled with white officers, but where are the Black officers? And do we want to bring Black officers into an oppressive system where they are set up to fail for doing the right thing? Some members of the public claim that it's just a few "bad apples" in the force who abuse Black and brown people. But why are the "good apples" standing by and not intervening as the so-called "bad apples" beat us? Take a look at what happened with the group of NYC police officers known as the "NYPD 12." They filed a lawsuit because they had been pressured to meet illegal quotas and were punished when they refused to comply. Supervisors have been recorded threatening reprisals against the officers. The NYPD 12 spoke up, they were disciplined for trivial infractions, given undesirable assignments, and blocked when they sought promotion, according to the documentary *Crime + Punishment*. The current system of policing does not support actions that create equity for all and doesn't protect the so called "good apples."

Nation-wide systemic racism has built inequitable policies and discriminatory practices into the very foundation of our criminal justice institutions. Across the country, we have filled prisons with Black and brown people and expanded policing and incarceration while defunding the very systems and programs that would address the root causes of "crime." Long Island has an infamous history of racial segregation and hyper-policing of Black and Latinx communities. For too long, our communities of color have been the victim of these practices while we fail to repair the harm caused to those left behind.

Much of the work police do is merely engaging in the daily harassment of Black communities for minor crimes or crimes of poverty that shouldn't be criminalized in the first place. Out of the 10.3 million arrests made per year nationally, only 5% are for serious offenses including murder, rape,

and aggravated assault that threaten public safety. The remaining 95% of arrests are for incidents such as traffic violations, marijuana possession, unlawful assembly, and even lesser indiscretions. These statistics evidence that police agencies are spending the overwhelming majority of resources on minor incidents that do not actually threaten everyday life but do lead to mass criminalization and incarceration of Black Americans.

On a day to day basis, Black people worry about their Black sons, their Black husbands, their Black brothers, their Black nephews, their Black cousins, and their Black grandchildren. They worry about everybody Black because every time they encounter police officers, they fear that the Black skin they were born with will make some police officers scared of them and cause them to be beaten or killed.

Black people are your neighbors, your colleagues, your staff, your employers, your friends, and most importantly, they are people. We need you to value their lives, show up for them, and take action – because they are under attack. Racism is a pandemic that has been plaguing Black people for centuries.

On Long Island, the over-policing of Black communities and the discriminatory practices of policing are highlighted in the data:

- Nonwhites are 5 times more likely than whites to be arrested after 'stop-and-frisk'-like encounters.
- Nonwhites are 2 times more likely to be sentenced to jail, even under charges for which whites are arrested more frequently.
- Relative to their population, Black community members are nearly 3 times more likely to be at risk of a traffic stop than whites.
- Police violence is a leading cause of death for Black men in America: A recent study found that 1 in 1,000 Black men can expect to be killed by police, and public health experts have described police violence as a serious public health issue.

In order to enact change, we must come together and propose ideas that are community-centered and transform the current state of policing into one that is just for everyone. We can no longer accept a model that was developed from a slave catcher system as our present-day mechanism for ensuring public safety. We cannot leave transformation in the hands of the police. They have shown that they are incapable of positive structural reform and that they cannot police themselves.

Unfortunately, the illusion of white supremacy has tried to divide us. We shouldn't be against each other; we should be supporting each other, caring about each and every person, and making sure that Black lives actually matter too. After the start of the pandemic, people began to pay attention to the fact that some police officers get trigger happy or use excess force when it comes to dealing with Black people. In 2020, we witnessed white folks come out in unprecedented numbers to stand with Black people and demand that the racist system of policing be changed. We have reached a point in our lives where we can no longer stand by and watch Black and brown people be beaten by a government entity that is charged to protect and serve all of its people.

Let's take a look at all the things that police are responsible for:

School crossing guards
Traffic violations
Domestic disputes / domestic violence
Welfare checks – safety and wellness
School resource officers
Crowd control
Event security
Mental health crisis
Suspicious person
Noise complaints

Suicide alerts
Loitering
Traffic direction
Medical interventions / overdoses
Intelligence gathering
Runaways
Community disturbances
Pandemic response
Landlord tenant
Patrol public housing
Investigating themselves
Assisting ICE
Animal control
Sexual assault
Low-level misdemeanors
Car accident reports
Missing persons
DWI
Investigating hate crimes
Escort services
Anti-terrorism
Felonies
Robberies and other violent crime

And more

The police are responsible for too much, and they are not equipped to deal with this broad range of issues.

Police are also tasked to find criminals and to look for them in neighborhoods they know nothing about. We need people that are actually trained in dealing with mental health, substance abuse, and houselessness. We need a better system – not more armed police officers to deal with public safety. The policing system should be designed to work for the people, and the people should have a say in what tasks the police are responsible for. Together, let's promote transforming public safety by using restorative justice and alternatives that stop the cycle of violence. If we don't change things, our kids' kids and their kids will still have to march in the streets, create hashtags, and call out even more names to remember because someone is scared of and doesn't value Black skin.

Are you willing to be part of another generation that remains complacent with the way Black lives are being treated when it comes to law enforcement? Black people should feel the same safety and security that white people feel, but as it stands right now, they don't. Let's be the generation that makes an impact. Let's change the fact that Black parents have to have "The Talk" with their kids and explain that they must do certain things in order to remain alive during even simple encounters with police.

Was going to protests enough for you? Is that your limit to creating transformation? Are you going to remain silent? Every person needs to stand up and be a voice for Black lives. It's time to be united because the people united will never be defeated.

Now that the plan is completed, we need your support more than ever. We need you to take that same energy that you brought to the streets and use it to advocate for the People's Plan. We need you to not only endorse the People's Plan, but we also need you to call, write, email, inbox, and meet with your legislators to request that they use the People's Plan to create real systemic changes to policing and community safety. We put so much energy into these proposals because we should live in a society where:

- Every community member feels protected by the police, not targeted;
- Police aren't charged with investigating themselves;
- Homelessness is not treated as a crime;
- Armed police officers are not the answer to health crises;
- Black and Brown people aren't stopped by police at a higher rate because of their skin color;
- People that experience negative encounters with police officers have a responsible and effective non-police entity to report these incidents to;

- The police officers don't serve as the judge and executioner when it comes to Black and Brown people;
- Youths of color, students with disabilities, and students who identify as lesbian, gay, bisexual, transgender, or queer (LGBTQIA+) are not more likely to be impacted by zero-tolerance policies that School Resource Officers enforce that ultimately contribute to the School-To-Prison / Deportation Pipeline.

This Plan has provided you with data, evidence, examples, and resources to help you advocate for real police transformation. We have the opportunity to fix a system that is rooted in bias and racism. We deserve a system that will work for all Long Islanders no matter their skin color, economic status, or where they live. Now is not the time to sit back and be neutral or complacent. We must use our voices to stand up for change. Together, let's make the People's Plan the standard for how Long Island police departments deal with community safety.

Below are statistics and stories collected from two different Newsday reports that highlight the misconduct of police on Long Island, and the lack of accountability they faced for their actions.

On December 12th, 2013 Newsday published an article called "For Their Eyes Only." It states that:

- More than 100 cops involved in serious misconduct cases either remained on the job or continued to work for years before retiring.
- At least 33 officers have retired with serious misconduct charges against them pending, and Newsday was able to find only six officers who were officially terminated since 2003.
- At least 49 Nassau and Suffolk cops have been sued more than once, most often for excessive force.
- Nassau and Suffolk counties have had to pay more than $30 million to settle misconduct allegations against the Nassau and Suffolk County police departments since 2002. The actual amount could be higher because settlement agreements can be sealed.

Nassau highway patrol Officer Joseph Lynch stayed on the job for six years after investigators from the Nassau District Attorney's Office found in 2005 that he had manipulated drunken driving arrests to boost his overtime. Lynch stopped people, often without probable cause, late in his shift to stay on the clock while he processed the arrest, according to the DA's investigation. Lynch earned $58,399 in overtime pay in 2004, about a third of his $168,637 earnings. The department assigned him to desk duty, but restored him to street duty in January 2008.

After getting caught doing the same thing again, Lynch retired in 2011. He collects a $121,452 annual pension.

Nassau Officer Anthony Raymond shot and killed Christopher Wade in a high-profile case in 1995. Raymond fired 16 shots, including some after he reloaded his weapon when his gun jammed, according to a police department review of the incident.

Raymond said he shot Wade because he was in fear for his life, and he turned over a loaded .32 caliber Smith & Wesson revolver that he said he kicked out of Wade's hand. Later tests showed that it had not been fired and bore no fingerprints. A jury awarded Wade's family $2.5 million in 2000 after they filed suit against Raymond and the county.

During the civil trial following Wade's death, the family's attorney, Frederick K. Brewington, showed personnel documents that revealed Raymond had been the subject of 19 civilian complaints during his

tenure with the NYPD before joining Nassau's department. The complaints, which ranged from the use of racial slurs to assault, were all ruled unsubstantiated.

On December 18, 2013, Newsday published another report titled "Case studies: Long Island police misconduct cases." It contains a list of information on several police officers and details of their misconduct, some of which is described below.

At least seven citizen complaints—six alleging excessive force—have been lodged against Suffolk Police officer Kenneth F. Hamilton since he joined the department in 2002, according to an officer history log obtained by Newsday. One of those complaints was filed the day after Hamilton beat a suspect in April 2010 the officer said was combative and had fled police. The young man, 19-year old Kevin Turner, later died from complications due to the injuries he suffered in the beating.

Internal investigations cleared Hamilton of misconduct in all the previous complaints made against him, although the officer history log indicates the most recent excessive force complaint is unresolved. In two federal lawsuits, settlements were paid to plaintiffs who claimed that Hamilton had been excessively violent with them.

Hamilton remains on the force and is seeking a line-of-duty disability retirement for injuries he says he suffered while apprehending Turner.

Nassau police arrested Hofstra student Michael Fonte in November 2002 for slashing another man with a knife in a bar fight. But two witnesses told Trujillo, a detective, that Fonte didn't do it, according to court records. A third said he saw another man with a knife. According to the court records, the victim who initially accused Fonte said two weeks later he was no longer sure. Fonte, who had no known criminal record, insisted he didn't do it. However, the case against him was presented to a grand jury.

At least one witness statement exonerating Fonte was not presented to the grand jury, and when Fonte's attorney, William Kephart, was given the witness statements on the eve of trial in March 2004, he demanded that the case be re-presented to the grand jury. According to court papers, the Nassau District Attorney's Office refused. After a judge ordered that the case be presented again, the charges against Fonte were dismissed. Fonte later sued the county, police department, district attorney's office, four assistant district attorneys, Trujillo and five other unnamed people. He won a settlement of $88,500.

For Trujillo, it wasn't his first case of arresting the wrong man.

In 2002, the Nassau District Attorney's Office opened an investigation into allegations that Trujillo, then a homicide detective, coerced a false confession from Jose Anibal Martinez. As a result, Martinez spent five months in jail on a manslaughter charge. Martinez said Trujillo slapped him and yelled at him, making him afraid to not sign the statement, even though it was false. Trujillo said at the time he had been "stewing" about the allegations but declined further comment.

While Martinez was in jail, police obtained information in October 2001 that he was not the killer. However, the prosecution did not turn over that information until the real killer was arrested in January 2002, according to court papers. Martinez sued Nassau County, the department, Trujillo and 11 other police officials, and the case was settled for an undisclosed amount.

Trujillo has also been named as a defendant in two other federal civil rights cases. One was filed

by Santos Castillo against the department, Trujillo and other officers in 2001. The other, alleging civil rights violations, was filed by Jarol Escobar against the department, Trujillo and other officers in 1999. Both were settled for undisclosed amounts.

Trujillo still works for the department. He made $188,521 in the most recent budget year.

These stories are disturbing in their own right, but it is important to remember they are only a fraction of the true extent of violence, abuse, and corruption that occurs within police departments across the country. It is critical that we take action immediately, for the sake of Christopher Wade, Kevin Turner, Michael Fonte, Rondese Hilton Jones, Matthew Felix, Angel Rivera, Akbar Rogers, all the other unnamed victims of wrongful arrests and police brutality, and those that deserve a future without living in fear. It's your turn to do the right thing. Use your voice to make The People's Plan a reality for Long Island.

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