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TOWN OF NIAGARA
POLICE REFORM POLICY
MARCH 2021

I. Introduction: On June 12, 2020 Governor Cuomo signed an executive order requiring each local government that has a police department to adopt a policing reform plan by April 1, 2021. With over 500 law enforcement agencies in New York and a large amount of diversity in the approach to policing, there is no “One Size Fits All” solution.

Many communities all across the US are dealing with issues concerning their respective police departments. To rebuild community/police relationships, each local government must establish an ad-hoc committee of stakeholders for a fact-based and honest dialogue about the public safety needs for their respective communities. In December of 2020, the Town of Niagara Town Board passed a resolution establishing a police reform committee consisting of the following individuals: (See attached resolution)

Lee S. Wallace:	Town Supervisor
Marc Carpenter:	Councilman/Police Commissioner
James Suitor:	Police Chief
Craig Touma:	Town Prosecuting Attorney
Amanda Haseley:	NCCC Athletic Director
James Hagerty:	Niagara Wheatfield CSD Educator
Brian Markovich:	Town of Niagara resident
Patrick Barney:	Town of Niagara resident
John Parks:	Town of Niagara resident
Lisa Baehre:	Niagara County ADA
Gene Pucci:	Town of Niagara resident
Kelly Aderman:	Town of Niagara PD Union President

The millions of people who gathered in protest, even in the midst of a public health crisis made it clear that they believe that the current system is not working, and we concur. We must also attest to the fact that the vast majority of officers are honest and decent. If that is the case, then we must move beyond the divisive and unhelpful debate over the good and bad police, and focus on what needs to change.

Therefore, what is the appropriate role of the police? New policies must be developed to allow the police to do their jobs to protect and serve and these policies must meet with the local communities' acceptance. Should the mountain of non-violent crimes for which an individual could be arrested be minimized? Let us not forget that the altercation with Eric Garner began over the selling of loose cigarettes. Should we demilitarize the police and free them from the task of enforcing minor traffic violations or doing the job that might be handled by social workers? Should we eliminate qualified immunity, require body cameras, move to more localized policing, end civil asset forfeiture, stop getting out of jail free cards and eliminate provisions in union contracts that protect truly bad cops? These are just some of the issues and concerns that the Town of Niagara Police Reform Committee addressed along with the basic elements listed below:

II. Trust and Legitimacy: Maintaining public safety is imperative; it is one of the essential roles of government. In order to achieve that goal, there must be mutual trust and respect between the police and the communities they serve. The success and safety of our society depends on restoring and strengthening mutual trust. With crime growing in many communities, we must seize this moment of crisis and create a successful strategy.

III. Redefining the Role of the Police: The police have a hard and necessary job. To do their job—to prevent crime and to promote public safety—our police need public trust and cooperation. If they do not earn that trust, they cannot do their jobs.

All of our recommendations are designed with this key principle in mind. There have been many calls in recent months to “defund” the police. However defunding is not the path to better public safety and enhanced public trust.

The police are first responders, but that does not mean they should be the first responders for every need. In many cases, only a small percentage of calls for service involve violent crime, while many other calls involve issues like mental health, substance abuse, and homelessness. However moving forward, we must also consider which roles police should play and allocate resources to other important social services. We need to consider adequate funding for social services that are currently left to police officers.

IV. Sanctity of Life: Job number one for our officers is the protection of human life and physical safety. To accomplish this, it is vital that use of force policies state that:

- Deadly force is a last resort
- Officers should exhaust all reasonable alternatives before using force any force.
- If force is used, it must be the minimum force necessary
- Tactics like chokeholds and firing at moving vehicles should be banned or reserved for only the extreme circumstances when the use of deadly force is permitted.
- Departments should have a de-escalation policy and should train their officers on that policy and de-escalation techniques.

- Departments should require officers to intervene when they see a fellow officer using excessive force.

V. Equality and Due Process: Officer Interactions with individuals must be impartial and free from bias. Police department policies and training should make clear that bias in policing is prohibited.

- Departments should monitor stops, searches, and arrests to identify disparities in enforcement that disproportionately impact communities of color and others.
- Police chiefs and other supervisors must be empowered to hold accountable any officers who are found to have violated anti-discrimination or bias-free policing policies.
- Departments should set goals for recruitment so that departments hire and retain men and women who are part of the community and reflect the community's diversity.

VI. Community Policing: When our officers have strong ties with the community they serve, they are in a better position to fight crime and guard public safety. Fostering community trust begins with the officers on the street. Our police should build relationships with our communities, and then work together with them to address shared problems.

VII. Policing Mass Gatherings: Our residents have the right to peacefully assemble, and our policies must reflect that right. In policing mass gatherings, we should minimize the use of provocative tactics and equipment and de-escalate confrontations whenever possible. The police are there to protect demonstrators and community members from potential violence and should plan and be prepared for the possibility that peaceful protests may turn into unlawful assemblies. We recommend not resorting to mass arrests if individuals who are committing crimes can be removed, so that others may continue to peacefully protest

VIII. Transparency and Accountability: Our police department must adopt policies that strengthen transparency and accountability so that officers who engage in serious misconduct are not returned to duty. In some cases, this will require working with unions to rework collective bargaining agreements that prevent appropriate investigations of officer Collective bargaining agreements and certain state laws that are barriers to investigating officer misconduct must be changed to eliminate, for example:

- Bans on anonymous or third-party complaints that prohibit even the initiation of an investigation;
- Every police department should use body-worn cameras for every officer and have clear policies on their use and for the release of videos to the public.

IX. The Role of the Committee: This must be a collaborative effort. It would be a mistake to frame these discussions as an adversarial process or an effort to impose "top down" solutions. This process should include the following:

1. Review the needs of the community served by its police agency and evaluate the department's current policies and practices.
2. Establish new policies that allow police to effectively and safely perform their duties.

3. Involve an entire cross-section of the community in the discussions.
4. Develop policy recommendations resulting from this review.
5. Offer the plan for public comment
6. Present the plan to the local legislative body to ratify or adopt the plan.
7. Certify the adoption of the plan on or before April 1, 2021.

Revised Policy Changes

X. Use of Physical Force (Revised): To establish a uniform policy and procedure to members in the appropriate use of physical force and to establish documentation requirements to report such use. The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others.

This revised policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests.

1. Officers may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training given by the Town of Niagara Police Department.
2. Chokeholds or similar restraints that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air are strictly prohibited. NYS Executive Law 837-t-b. The Town of Niagara Police Department's Use of Force policy has been revised to adopt this executive law.
3. It is the responsibility of each member to be aware of the requirements of PL Article 35 to guide his/her actions based upon that law, policy and training. Town of Niagara Police Department polices incorporate annual Use of Force training at a minimum.
4. Duty to Intervene: Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm. The Town of Niagara Police Department has adopted a policy to embrace a police officer's Duty to Intervene.

XI. Use of Deadly Physical Force (Revised): Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.

1. Deadly physical force may be used to stop a fleeing suspect where:

2. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and, the officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
3. Where feasible, some warning should be given prior to the use of deadly physical force. Warning shots are strictly prohibited.

XII. Prohibited Use of Force (Revised): Force shall not be used by an officer for the following reasons:

1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
2. To coerce a confession from a subject in custody;
3. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required.
4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or pass resistance posed by the subject.

XIII. Policy On Shooting Incident/deadly Force (Revised): To establish a revised uniform policy following a shooting incident/deadly force encounter, if applicable. This is to maximize the appropriateness of the necessary investigation and to minimize the chances that involved personnel will develop or suffer post-traumatic stress disorder. This policy will guide members in the proper use of deadly physical force.

1. It is the policy of this office that member involved shootings/deadly force incidents are investigated with the utmost thoroughness, professionalism and impartiality to determine if member's actions conform to the law and this office's policy on the use of deadly physical force. Members of the Town of Niagara Police Department may use deadly physical force only when the use of deadly physical force is necessary to defend the officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force, in accordance with the New York State Penal Law, Section 35.15-2a.

XIV. Taser Policy and Procedures (Revised) Less lethal weapons are tools to assist officers to reasonably and effectively control a physically resistant, or aggressive or violent subject(s) who poses a threat of physical harm to themselves, to the officer(s) or to other persons or property. The X2 Taser is an additional police tool and is not intended to replace verbal problem solving skills, other self-defense techniques, or a firearm. The Taser (electronic control weapon) should be considered when a officer has reasonable cause to believe it is necessary to provide protection for officers, minimize risks for injuries to all, control a dangerous or violent subject, protect a third party or to effect an arrest.

1. Less lethal weapons have been adopted for use by the Town of Niagara Police Department but are not intended to be a substitute when lethal force is necessary. Sworn personnel must successfully complete training on less lethal weapons prior to using them.

2. Liability: This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law regarding the use of force as defined in Article 35 of the New York State Penal Law will form the basis for civil and criminal sanctions.
3. Requirements to carry: If authorized by the Chief; Supervisors, Patrol officers, and Court Officers must carry an electronic control weapon while on-duty and in uniform.
4. Electronic control weapon Certification: Sworn personnel must successfully complete a specific department authorized electronic control weapon training and certification course before they may carry and use such device.

XV. Policy On Use of Non-Lethal Weapons (Revised): To establish a policy regarding the use of approved non-lethal weapons by members of the Town of Niagara Police Department. This policy will help to ensure the proper use of these weapons. It will also identify specific non-lethal weapons as being prohibited for use or possession by members of the Town of Niagara Police Department.

1. The level of physical force used, the use of non-lethal weapons, and the appropriate use of force is dependent upon the type and extent of resistance.
2. Article 35 of the NYS Penal Law establishes the level of physical force that may be used by a police officer in the performance of his/her duty. Members of the Town of Niagara Police Department are to be familiar with Article 35 and with the appropriate policies and training of the Town of Niagara Police Department.
3. When physical force and/or non-lethal weapons are used, a Use of Force Form will be completed as soon as practical by the reporting officer.
4. Only issued or approved equipment will be carried on duty and used when dealing with resistance. The use of any physical force will require completion of the Use of Force Form.
5. It is the responsibility of every member to be aware of the requirements of Article 35 and of Departmental policy, and for the member to guide his/her actions based on that law, policy and training.
6. Prohibited & Unauthorized Weapons: Only impact weapons that have been issued and/or approved by the Town of Niagara Police Department shall be utilized by members. Weapons that have not been authorized are prohibited from use. Specific examples of unauthorized weapons include, but are not limited to, the following:
 - Blackjacks or saps
 - Weighted gloves
 - Nun-Chucks
 - PR-24's
 - Chemical Mace
 - Brass Knuckles

XVI. Policy on Taser Axon Non-Officer Video Recording System (Revised): To establish uniform guidelines for the use of the Taser Axon On-Officer Video Recording System. The system will be used to document various events, and at the end of the user's shift, the captured data will be preserved in a web-based digital storage facility, Evidence.com. Once captured, these recordings cannot be altered in any way and are protected with multiple layers of encryption. The Town of Niagara Police Department has adopted the revised use of the On-Officer Video Recording System to accomplish the following objectives:

1. To enhance officer safety.
2. To accurately capture statements and events during the course of an incident.
3. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
4. To provide an impartial measurement for self-critique and field evaluation during recruitment and new officer training.
5. To capture visual and audio information for use in current and future investigations.
6. To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recording.

XVII. Policy on Dealing with the Mentally and Emotionally Disturbed: Establish a uniform policy and procedure for the safe and effective handling of disturbed persons.

1. Any officer, when acting pursuant to his or her special duties, may take into custody any person who appears to be mentally ill and is conducting himself or herself in a manner which is likely to result in serious harm to the person or others.
 - a) Such officer may direct the removal of such person or remove him or her to any hospital specified as outlined in subdivision (a) of Section 9.39 or any comprehensive psychiatric emergency program specified in subdivision (a) of Section 9.40, or pending his or her examination or admission to any such hospital or program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or, if there be none, the health officer of the city or county of such action. Effective until July 1, 2016.
2. Likelihood of Serious Harm: A substantial risk of physical harm to the person himself, as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself.
3. Other Conduct: Includes a person's refusal or inability to meet his/her essential need for food, shelter, clothing or health care. A substantial risk of harm to other persons, as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical injury.

4. LEAD Program: In conjunction with and with assistance from the Niagara County Sheriff's Department, the Town of Niagara will create a partnership with Niagara County Mental Health, to become involved in the Law Enforcement Assisted Diversion (LEAD) Program.
 - a) LEAD is a community-based diversion approach with the goals of improving public safety and public order, and reducing unnecessary justice system involvement of people who participate in the program.
 - b) This program allows police officers to exercise discretionary authority at point of contact to divert individuals to a community-based, harm-reduction intervention for law violations driven by unmet behavioral health needs.
 - c) Individuals are instead referred into a trauma-informed intensive case-management program where the individual receives a wide range of support services, often including transitional and permanent housing and/or drug treatment. Prosecutors and police officers work closely with case managers to ensure that all contacts with LEAD participants going forward, including new criminal prosecutions for other offenses, are coordinated with the service plan for the participant to maximize the opportunity to achieve behavioral change
5. De-escalation Training The Town of Niagara Police Department will expand training to meet the needs of our communities as well as engage in annual de-escalation training programs. We are currently in the process of rolling out additional de-escalation training and empathy training.
 - a) We will begin to incorporate virtual reality (VR) training to place officers in real life situations. This type of training will enhance officer's abilities to recognize members of the community who are experiencing mental health situations as well as training of disability awareness.
 - b) Our goal is to expand the training opportunities as well as expand upon this important training policy to meet the needs of our community. We are currently in the process of establishing a more extensive program, aimed to engage officers and create cognitive awareness regarding empathy training.

XVIII. Policy on Affirmative Action (Revised): To provide the opportunity of employment without regard to race, color, sex, religion, age, national origin, disability.

1. The goal is to increase the number of minorities and women in the department by 25%.
2. To assist minorities in attaining supervisory status when time and rank permits and in conjunction with NY State Civil Service requirements.
3. The Town of Niagara is committed in maintaining Affirmative Action considerations as a vital part of all hiring as well as meeting and maintaining our responsibilities to the residents of the Town of Niagara.
4. Diversity and Minority Training: The Town of Niagara will continue to provide annual diversity training.

5. Anti-Bias Training: The Town of Niagara Police Department will work in concert with other local law enforcement agencies in Niagara County including Niagara University to provide the most effective and current anti-bias training for our members.
 - a) Once established, we will continue to offer this training as an annual requirement. We will also continue to look for relevant training on these topics to ensure a diverse curriculum of training can be offered to our deputies.

XIV. Policy on Racial Profiling: Racial profiling as well as any other bias based beliefs are prohibited. The Town of Niagara is committed to observing, upholding, and enforcing all laws relating to the individual rights of all persons. Members will respect and protect each person's human rights and comply 56 with all laws relating to human rights. In addition to respect for those human rights prescribed by law, members will treat all persons with the courtesy and dignity.

1. All employees, independent contractors and associates of the Town of Niagara, will conduct themselves in a professional manner and maintain a courteous attitude in all contacts with the public. It is a fundamental duty of all officers to be vigilant in the investigation of unusual or suspicious occurrences, detect violations of the law, safeguard lives and property, guarantee all persons fair and equal treatment under the law, and ensure that the rights of all persons are protected.
2. All employees, independent contractors and associates are expressly prohibited from engaging in racial profiling or bias based policing activities. Making routine or spontaneous law enforcement decisions, such as investigatory stops, traffic stops and arrests, may not use race, ethnicity, color, national origin, ancestry, religion, disability, gender, gender identity, sexual orientation, marital status, parental status, military discharge status, financial status, or lawful source of income, except that officers may rely on the listed characteristics in a specific suspect description.
3. Officers must be able to clearly articulate the specific police or public safety purpose of any traffic stop. Officers will immediately report any observed violations of the policies and procedures established under this directive to a supervisor.

XX, Community Outreach Policy: The Town of Niagara will create a community Outreach Program designed to build confidence in the Town Police Force, as well as establish a stronger and closer bond with the community at large.

1. The town will reach out and begin to establish relationships with programs such as Building Bridges, Explorers Post and All-Students Taking Action and Responsibility (ALL-S.T.A.R.) and the PAL.
2. The goal will be to create better relations between police, citizens, and community youth through a myriad of interactive programs that include the youth in positive endeavors.
3. Town Hall Meetings: The Town of Niagara PD is committed to have a much more visible presence within the community. As such, we will begin holding quarterly "Town Hall" style meetings open to our residents and businesses. These meetings will allow us to communicate information about programs and services offered, as well get feedback and as listen to issues and concerns that our constituents might have.

XXI. Continuous Reform Evolvement: Because we believe that the reform process is a fluid concept and therefore may need additional updates, modifications and changes as we move forward, we will continue to engage with our reform committee periodically to update them on progress and seek regular input and feedback.

- a) We will look to establish tools that can verify if the newly revised and established policies are functioning properly.
- b) Specifically, we will be looking to measure the effectiveness our community outreach programs, Training programs, minority hiring, the implementation of our mental health program, and the completion of our LEAD training.