

Preliminary Report of the Otsego County
Law Enforcement Review Task Force

Executive Order No. 203

Executive Order No. 203, dated June 12, 2020, entitled “NYS Police Reform and Reinvention Collaborative” required a comprehensive review of police agencies with respect to their deployments, policies, procedures and practices and the development of an improvement plan for same. The main purpose was to address the particular needs of the communities served by the police agency and to promote community engagement to foster trust, fairness, and legitimacy and to address any racial bias and disproportionate policing of communities of color.

Pursuant to the Executive Order, Otsego County Board Chair David Bliss convened the head of the local police agency, and stakeholders in the community to develop such plan. Certain stakeholders were required to be invited to participate including specific County public officials – Sheriff, District Attorney, Public Defender- and other local public officials as well as members of the community including interested non-profit and faith-based community groups.

Despite such a worthy and sweeping directive, no funding was provided by NYS to undertake should an important project.

Members of the Task Force

Chair Bliss named the following to the Otsego County Law Enforcement Task Force:

David Bliss - Otsego County Board Chair, Task Force Chair	Neva Fortes, Hartwick College student
Sheriff Richard Devlin	John Muehl - District Attorney
Undersheriff Cameron Allison	Molly Myers - Fenimore Museum and Farmer’s Museum
Ameen Aswad - Alternatives to Incarceration; Catholic Charities, Dispute Resolution Center	Daniel Naughton - Probation Director
Ellen Leary Coccooma- County Attorney	Ari Tobi- Aiyemo - NAACP
Cameron Conover -SUNY Oneonta, Men’s Basketball Coach	Michael Trosset - Public Defender
Daniel Derice - SUNY Oneonta student (left Task Force after moving from the area)	Daniel Wilber - Representative and Chair, Otsego County Public Safety Committee
	Bryce Wooden - Member City of Oneonta Task Force, SUNY Oneonta, Counselor - Educational Opportunity Program

Directives and guidance

Chair Bliss emphasized that community input was of utmost importance and worked with community members to develop the agenda for each meeting and a slate of speakers for the Task Force.

He is grateful to all who contributed to the agenda including Sheriff Richard Devlin who provided a comprehensive look at the functioning of his Office. Professor Ari Tobi-Aiyemo secured many speakers with national reputations in the study of criminal justice. With the addition of important information provided by the other speakers (all listed below), the Task Force was fortunate to have a wide variety of sources both locally and from across the country who provided valuable background and information. Collectively, they helped the Task Force gain important insights into policing and reform from both an academic and practical perspective.

Chair Bliss expresses his thanks to community members and public officials who gave of their time to be part of the County Task Force, including County IT Director Brian Pokorny who provided important assistance in the smooth running of the remote meetings during this time of pandemic restrictions.

The Executive Order laid out a broad array of topics for review and consideration including:

- 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.

As required by the Executive Order, the goal of the Otsego County Task Force was to “create a plan to adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.”

The Governor’s guidance of over 100 pages required consideration of 4 broad categories:

1. What functions should the police perform?
2. Employing smart and effective policing standards and strategies
3. Fostering community-oriented Leadership, Culture and Accountability
4. Recruiting and Supporting Excellent Personnel.

The County plan is due to be filed with the Executive branch by April 1, 2021. Failure to do so could result in delays in NYS payments to the County and the appointment of a monitor to oversee the law enforcement agency at County expense.

Demographic information and applicable new NYS legislation

Race and Hispanic Origin - Otsego County- as of July 1, 2019:

White alone, percent	94%
Black or African American alone, percent	2.5%
American Indian and Alaska Native alone, percent	0.3%
Asian alone, percent	1.5%
Native Hawaiian and Other Pacific Islander alone, percent	0.1%
Two or More Races, percent	0.6%
Hispanic or Latino, percent	3.8%

Police Reform Legislative Changes 2020

NYS LEGISLATED REFORM	REFORM ITEM	DESCRIPTION
NYS Reform 1-S8492	Civil penalties for filing false reports on a member of a protected class	Establishing civil penalties for falsely Summoning a Police Officer when there is no reason to believe a crime, offense, or threat has been committed involving a member of a protected class. (Effective June 13 th , 2020)
NYS Reform 2-S2578-B	Require police officers to report the Discharge of weapon	Requires a police officer or peace officer (whether on or off duty) who discharges his or her weapon under circumstances where a person could be struck by a bullet to verbally report the incident within six hours, and file a written report within 48 hours. {Effective September 13 th , 2020)

<p>NYS Mandate 3-S2574-B</p>	<p>Require the reporting of Police Acts or Omissions resulting in a Person's Death to the Office of Special Investigation</p>	<p>Establishes the Office of Special Investigation within the Office of the Attorney General which will have investigative authority and criminal Jurisdiction for any incident involving the death of a person caused by an act or omission by a police officer or a peace officer employed as a corrections officer or contracted by an education, public health, social service, parks or housing agency. Where an investigation concludes that the death involved criminal conduct, the Office will be empowered to prosecute any such alleged offenses (Effective April 2021)</p>
<p>NYS Mandate 4-S6670-8</p>	<p>Ban Chokeholds</p>	<p>The Eric Garner Anti Choke Hold Act created the crime of aggravated strangulation (making it a Class C felony) and establishes criminal penalties for a police officer who uses a chokehold that causes serious physical injury or death.</p>
<p>NYS Mandate 5-S6601-A</p>	<p>Require Medical Response for Arrestees</p>	<p>Affirms an individual's right to Medical and Mental Health attention while under arrest or otherwise in custody of a police or peace officer. Failure to provide reasonable and good faith medical assistance could result in a cause of action against the officer, representative and/or entity. (Effective June 15th, 2020)</p>
<p>NYS Mandate 6-S1830-C</p>	<p>Require Policing Statistics be reported to the Division of Criminal Justice Services</p>	<p>Requires courts to compile and publish data concerning arrest and court proceedings involving low-level offenses such as violations and traffic offenses. Such report will include aggregate and anonymized demographic information such as race, ethnicity, and sex. This bill requires police departments to submit annual reports on arrest-related deaths to the Department of Criminal Justice Services, as well as</p>

		the Governor and State Legislature. (Effective December 12 th , 2020)
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Proposed legislative changes:

If passed, on April 1, 2021, New York State Senate Bill S3595B will amend Executive Law by adding a new section, §75 which in part reads:

“Every officer or employee in a covered agency shall report promptly to the law enforcement misconduct investigative office any information concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by another officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the law enforcement misconduct investigative office shall not be subject to dismissal, discipline or other adverse personnel action.”

Task Force Meetings

The Task Force met at least every two weeks, beginning on September 30, 2020.

The Task Force initially discussed the Executive Order and its mandate. Successive meetings included the following speakers:

- Sheriff Richard Devlin and Undersheriff Cameron Allison presented a comprehensive review of the Office and how it operates. They addressed the issue of certification under the regulations of DCJS and their plan to achieve recertification in 2021. Undersheriff Cam Allison presented a PowerPoint on the Sheriff’s office which covered several topics including a brief history of the office, some of the requirements the office has, and what work they do with the public. The Sheriff also presented a comprehensive written report including his recommendations which is submitted also.
- Patrick Legay, Director of the Dispute Resolution Center in Oneonta, discussed the services that are offered through the Center. These services include free confidential mediation services in Chenango, Delaware & Otsego Counties, to resolve interpersonal conflicts, small claims, and business disputes. Mediation services are also available to resolve family matters such as custody and visitation, and family conflicts. Additional mediation services are available for Special Education, Mobil Home, VESID, and Lemon Law arbitration. He explained that some restorative justice practices are utilized although the Center does not generally get involved with criminal matters.

A brief discussion was had about whether this was a potential resource for law enforcement as well. Sheriff Devlin commented on the many resources they have for their officers and highway deputies concerning dispute resolution. If cards could be provided, the Sheriff offered that staff could hand out cards to those interested in the services the Dispute Resolution Center has to offer.

- Dr. Aaron Stephens, Hartwick College Professor of Business Administration, discussed: 21st Century Demands Amid Constraints in Policing: A Way Forward. He offered insights about how to move forward with police reform and reinvention especially in light of current budgetary concerns.

He discussed his opinion that policing like many other 21st century industries faces additional demands and must respond with ideas for changes rather than the status quo. Now law enforcement is expected to address a wide variety of issues that were not expected of them in the past but are important to the community.

He looked at different budgets in the area and felt that Otsego County should focus on the community and that police organizations should merge resources and strategies to reduce budget waste/redundancies. In his view the multiplicity of different agencies does not necessarily provide the best policing for the funds spent. There should be community development focus including police officers, social workers, healthcare providers, educators, community builders and Social networkers.

- Dr. Charles R. Epp, Professor, University of Kansas, School of Public Affairs. His research focuses on civil rights and racial discrimination. He is the author of many articles and books including Making Rights Real: Activists, Bureaucrats, and the Creation of the Legalistic State; co-author of Pulled Over: How Police Stops Define Race and Citizenship. He discussed the use of statistics and other strategies to reduce racial disparities and the use of force in policing. His presentation included statistics that indicated the possibility of racial disparity in arrests pertaining to all police agencies in our area.
- Tyrone Lohr - 1997 SUNY Oneonta graduate who was directly impacted by what has become popularly known as the Blacklist. He introduced the film Brothers of the Blacklist and provided information for those unfamiliar with the events. An older woman in Oneonta stated that her house was entered, that she was assaulted, that she believed the person to be a Black male and that his hand was cut. The police requested a list from SUNY Oneonta of all Black male students who were then confronted and required to make their hands available for inspection which included Mr. Lohr. The assailant was never found and the civil rights case brought by the Black students went on to become an important case in civil

rights litigation throughout the country. He mentioned that the history of the Blacklist and its connection to Otsego County is well known to this day.

Mr. Lohr described the events from his own perspective of coming from a family with many involved in law enforcement. He was remarkable in his understanding of the many contexts involved. He stated that he has chosen not to focus on what was a traumatic event at the time, but rather to engage with his family and community to make positive changes.

- Dr. Candace McCoy, Professor, Graduate Center John Jay College of Criminal Justice- research interests include the study of policies in policing and accountability and she has many publications. From 2016-2018 she served as Director of Policy Analysis for the Inspector General of the New York City Police Department. She discussed her experience of participating in a civilian review board in NYC, and the importance of accountability to entities outside the law enforcement agency.
- Professor Ari Tobi-Aiyemo, Hartwick College – The Courts and Police Reform in Otsego County Thinking Outside the Box. She provided a comprehensive review of the speakers to that date, and information about the applicable law dealing with police misconduct, constitutional rights, and the role of the courts in implementing change. She discussed how the courts both oversee and can correct misconduct both in cases involving individuals and involving entire police forces.
- Susan Matt, Director of Community Mental Health Services – Provided information about the Mobile Crisis Assessment Team and services offered. She advised that the MCAT is available for collaboration with any law enforcement agency and that the Oneonta Police Department and Village of Cooperstown Police Department frequently utilized these services. She offered to provide training to the Sheriff’s Office which he has followed up on.
She also discussed the idea of prevention of escalation of incidents involving persons experiencing mental health issues. As an example, if an officer notices frequent calls involving the same person and suspects that a mental health issue might be involved, the officer could reach out to MCAT and ask that they do a wellness check. This could prevent a more serious incident from occurring and provide treatment at an earlier time.

Survey:

The Task Force also prepared a survey of attitudes of the public toward law enforcement and received responses which were reviewed by the Task Force. Although initially the Task Force

thought that SUNY Oneonta would allow the survey to be sent to all students, this was not the case and unfortunately had the result of depriving the Task Force of valuable information.

Approximately 575 responses were received and only 15 of these were from people who reported that they are Black or Hispanic; some chose not to provide this information. The Task Force asked Dr. Charles Epp to give some guidance in using the survey results. He stated that "this number of responses is much too low to draw conclusions about the views of community members in Otsego County. With an adult population of about 50,000, we would have needed over 1,000 responses to draw statistically valid conclusions about the views of the population as a whole if we wanted a 3% confidence interval (if we wanted a 5% confidence interval, the number of responses needed would still have been nearly 400). With a small Black population, we would need to have an over-sample of Black responses to have any confidence about how these members of our community perceive the police."

He also pointed out that it was not a random scientific survey. The Task Force recognizes that the survey was an informal gathering of information rather than a professionally prepared opinion poll which would have been quite costly. Although not statistically significant, the responses suggest the need to look into some issues more deeply. The survey also performed the important function of make more people in the community aware of the Task Force's mission.

The survey was available on line only, because of concerns about COVID restrictions and offering paper surveys. Consideration is being given to offering the survey again, using different methods of outreach and engagement. The Task Force shared the results with the City of Oneonta and Village of Cooperstown.

In general, the survey did not reveal a glaring problem with respect to racial bias. However, it was noted that the community attitude towards law enforcement was shaped not only by local law enforcement but also by events across the nation, including Black Lives Matter and other movements. Given the limitations of the survey and the fact that some members of the public do not necessarily make distinctions among the various law enforcement agencies, the Task Force felt that additional information should be sought and policies enacted to reduce the possibility of racial bias.

Review of Sheriff's Policies and Procedures:

The Task Force was supportive of the Sheriff's efforts at professionalization and the goal to re-achieve accreditation. Review of the Sheriff's policies has not been fully completed but initial review resulted in the following questions:

1. Policy about treating every person (not treating someone more leniently because you know them or more harshly because you know something about them/their family etc. - if you have a relationship with the person is the policy to assign another deputy to the scene to deal with the situation properly)

2. Policy about reporting fellow officers for breaking policies - “Whistleblower policy” (along with that a non-retaliation policy, confidentiality policy, a policy that encourages people to come forward, a policy that indicates that the Office takes these matters seriously)
3. Policy about members of the public filing complaints about officers - including a statement about how they will be treated seriously.

The Sheriff and Undersheriff indicated these ideas are already covered in other guidelines and laws that they follow. The Sheriff’s written responses were received on February 22, 2021 and are under review.

Additional questions have been provided to the Task Force by the NAACP regarding policies and procedures and will be part of the ongoing review:

- Review use of force continuum ensuring at least 6 levels of steps with clear rules on escalation
- Ban use of knee holds and choke holds and other similar procedures as a result of concerns arising out of the death of George Floyd
- Review state law regarding availability of Officer misconduct and disciplinary histories
- Review sheriff’s office record of disciplining or charging officers charged with misconduct

Fostering Trust between the Community and Law Enforcement:

The Task Force also identified a lack of understanding between law enforcement and the community and recommended that activities be undertaken to engage all residents. Some proposals include holding a community event sponsored by both community members and law enforcement. It was recognized that COVID-19 restrictions limit the kind of event that could be held.

In particular, there is an interest in developing a platform through which community concerns including those of disadvantaged populations can be addressed. One model under consideration is:

Otsego County Police & Unity Educational Alliance:

Task: Alliance members will conduct bi-monthly meetings (January, March, May, July, September, and November) with the Sheriff’s Office to share information from the community involving issues of racial inequality, gender inequality, economic inequality, and other social challenges our community is aware of. Alliance members will also conduct bi-monthly community engagement events (February, April, June, August, October, and December). Will ask non-profit organizations like the NAACP if they would co-sponsor these initiatives and help guide the alliance members with initiatives.

Reasoning for Task Creation-

Membership: Official Alliance members will be recommended by Otsego County Board Members, Sheriff's office and Social Justice Organizations within the Otsego County Community and this will be a volunteer service. Community members who do not get selected can still be involved by being members of potential subcommittees or providing recommendations and sharing information to the Alliance members to contribute with the organization.

Goal: To help build trust between the community and local police department. For community members to learn about our local police agency, create relationship building through recreational activities (online or in-person), and an outlet for our local police department to understand the historical and current issues that cause distrust between historically disadvantaged populations and Police Departments. (This issue will continue to exist if there is not constant communication and dialogue.)

A significant community in Otsego County is the undergraduate and graduate community. A partnership or committee with the college students will be explored as a way to provide an opportunity for discussion between that community and law enforcement.

Accountability:

At present, complaints regarding activities of the Sheriff's Office personnel are handled through the Sheriff's office only; there is no independent entity for the public to report concerns. Many on the Task Force would like to develop such an entity. The authority that could be given to such an entity and the obstacles to its functioning need to be explored. It was recognized that state legislation might be necessary.

Posting of the Sheriff's policies and procedures, including Whistleblower policies, to the extent possible was seen as a priority.

Recommendations:

There were many recommendations offered and considered by the Task Force and many came as a direct result of information provided by the speakers. Some recommendations are able to be implemented soon and others require further study, state legislation and/or have significant budgetary impacts. The Governor's office has indicated that the expectation was that review may indicate a need for further information and study, and it was not required that all reforms be implemented by April 1.

The recommendations are as follows:

1. Collection of statistics regarding racial bias including race/ethnicity of all encounters with law enforcement, not just arrests.

It became apparent that Otsego County does not have sufficient information to understand fully the extent of racial bias in law enforcement in this area. Dr. Epp's

statistics raised questions, and anecdotal accounts also point to the possibility of such bias. The Task Force recognized that it could not necessarily find sufficient information regarding details of past incidents but could address the situation by improving collection of information going forward.

To that end, the Task Force wants to:

- Work with Sheriff to adapt existing statistical collection procedures including purchase of additional software if needed
 - Have data collected also given to outside entity
2. Development of outside entity to review complaints against officers and review data collected regarding racial bias. Both from the Task Force as well as around the state, a third party review entity has been seen as critical to fostering trust and ensuring accountability. Proposals for the makeup and authority of such an entity were discussed, including joining forces with the City of Oneonta and Village of Cooperstown in an effort to use resources more efficiently. This concept needs additional review and may require state legislation to enact.
 3. Continued review of Sheriff's policies and procedures. Initial questions/concerns were raised and in addition the NAACP requested review of certain policies which has not been completed as outlined in more detail above.
 4. Sheriff's proposals – re-achieve NYS Law Enforcement Agency Accreditation. More details, budget required and implementation schedule needed for:
 - Advance reality Based Training program
 - Crowd Management training agency wide
 - Explore less lethal equipment and deployment option
 - Provide more independent instructional and training strategies
 5. Community recommendations for Sheriff's Office: More details, budget required and implementation schedule needed for:
 - Training and officer wellness:
 - Implicit bias awareness training
 - Mental health education – assist in identification of persons exhibiting possible mental health signs and symptoms;
 - Develop strategy to de-escalate or seek other agency participation if appropriate
 - Engage with Director of County Mental Health Services regarding identification of persons who would benefit from prevention, early intervention and use of Mobile Crisis Assessment Team
 - Officer wellness- training for all personnel in addressing stress and other mental health issues; annual physical and mental health exams.

Other:

- Post all policies on publicly accessible website
- Post information regarding whistleblower and other employee policies intended to achieve internal accountability both in the workplace and on the Sheriff's website

6. Community engagement:

- Informational event planned jointly with law enforcement and community
- Formation of a platform for community engagement such as the Alliance discussed in more detail in the report
- Explore possible partnership/board with Hartwick and SUNY Oneonta students to engage concerns of this population directly

7. Develop plan with County Personnel Officer to hire and retain persons of color and women in the Sheriff's Office

8. Survey- continue analysis of results; review results of other Otsego County municipalities; consider offering the survey to the public again using different methods of engaging public participation

9. Other proposals of the Sheriff listed below need more specific information including budgetary and other impacts:

- Improve supervision staffing within the Sheriff's Office Road Patrol Division.
- Establish a Social Worker within the Sheriff's Office.
- Maintain current hiring practices.
- Formulate a study for a Sheriff's Community Based Advisory Team.
- Standard Operating Procedure and Policy Management Software made available to the Sheriff's Office.

10. Divide into subcommittees dealing with the above topics and reconvene in 90 days.