

East Aurora Police Department Reform & Reinvention Report

Draft Report

Issued February 17, 2021

Approved by Committee for Public Review and Comment

Send all comments by February 28, 2021 to:

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Preamble

The following report and review of the East Aurora Police Department (EAPD) is being conducted in compliance with an order of New York State Governor Andrew Cuomo.

The purpose of the New York State Police Reform and Reinvention Collaborative is, "...to foster trust, fairness and legitimacy" within communities throughout our State and, "...to address any racial bias and disproportionate policing of communities of color."

The basic outline of tasks to be performed during this process include the following:

- Review the needs of the community served by its police agency, and evaluate the department's current policies and practices;
- Establish policies that allow police to effectively and safely perform their duties;
- Involve the entire community in the discussion;
- Develop policy recommendations resulting from this review;
- Offer a plan for public comment;
- Present the plan to the local legislative body to ratify or adopt it, and;
- Certify adoption of the plan to the State Budget Director on or before April 1, 2021.

East Aurora Police Department Reform & Reinvention Committee Members

East Aurora Village Mayor Peter M. Mercurio

Aurora Town Supervisor James J. Bach

East Aurora Village Police Chief Shane Krieger

East Aurora Village Attorney Robert Pierce

East Aurora Village Administrator Cathryn C. Thomas

East Aurora Village Clerk-Treasurer Maureen Jerackas

Police Union President Richard Gottstine

East Aurora Union Free School District Superintendent of Schools Brian Russ

Erie County ADA Sean B. Bunny

Executive Director of the Rural Outreach Center Frank Cerny

East Aurora Area Chamber of Commerce Executive Director Gray Grote

Due to the COVID pandemic, the Committee held their meetings via remote electronic means using Zoom software. Meetings were held weekly on Mondays at 4 p.m. and were all live-streamed on the East Aurora Police Department Facebook page. Video recordings of the meetings remained online for anyone to view at a later time. Audio recordings of the meetings were also made and written meeting minutes were generated.

Introduction

The Village of East Aurora is located in Erie County, about 20 minutes southeast of Buffalo. The Village Police Department is unique as one of only a handful within the State that are departments of a village with agreements to provide police services beyond the village limits to the surrounding town.

Most recent Census estimates have the population within the Village at just under 6,200 and the population in the Town of Aurora outside the Village around 7,600, for a total population protected by the police of approximately 13,800.

Census figures show the racial makeup of the entire Village and Town population as 98.83% White, 0.18% African American, 0.04% Native American, 0.36% Asian, 0.01% Pacific Islander, 0.11% from other races, and 0.47% from two or more races. Hispanic or Latino of any race were 0.59% of the population. The current racial makeup of the East Aurora Police Department is 94.2% white and 5.8% Native American.

The Village is the commercial hub of the entire Town, including a robust Main Street with shops, restaurants and bars and a large commercial shopping plaza on the outskirts of the Village. The Village attracts throngs of visitors and tourists, mainly in the Spring, Summer and Fall seasons and during the holiday shopping rush.

Reviewing documentation spanning the past 10 years, there are very few records of complaints generally about the department and/or which have concerns stated about specific officers.

The EAPD has community policing principles embedded in its routine operations. The Police Chief, command personnel and patrol officers are well-known within the community. Police presence is consistent at a wide array of community events from small social gatherings up to the largest events which draw crowds in the tens of thousands from all over the Western New York region. The Village Board reinforces the commitment to community policing values for the Department, including a residency requirement in the Union Contract ensuring that officers are an integral part the neighborhoods where they live.

The Village and School District have a long-standing agreement for provision of a retired professional patrol officer to serve as the School Resource Officer (SRO). The SRO has his finger on the pulse of the school community, including all grades of the student population, support staff, teachers and those serving in the District Administration. In fact, the program is held in such high regard that earnest discussions had been held to expand the program by adding police personnel to the SRO program. Those discussions, however, did not come to fruition with all the changes mandated by the outbreak of the COVID pandemic.

Community Survey

At the start of the review process, an online survey was devised with a broad scope of questions and community members were asked to respond to the survey. The survey was posted on the websites of the Village and the EAPD Facebook page.

Survey responses were accepted from mid-December 2020 through the beginning of 2021. There were 135 respondents.

The vast majority of responses from the survey held the police force in a positive light. Some of the negative responses were directed at Covid-19 protocols from the past year. Interestingly, some comments from various respondents were contradictory of one another. For example, some cited that officers enforce the Vehicle and Traffic Law too vigorously, while other cited that same enforcement as being too lax.

One member of the review committee noted that other survey methods could yield a more valid statistical sampling and result in differing responses.

It was noted that the EAPD does not currently have a routine and regular process for formally seeking feedback from the community.

Recommendation

It is recommended that the EAPD explore employing a routine and regular process for formally seeking feedback from the community. A wide variety of methods could be implemented and rolled-out on a rotating basis over an extended period of time. Some examples include:

- The website survey method that had been employed, however posting the survey to reach a variety of target audiences, such as the business community posted on the Chamber website, the school community posted on a school-sponsored site and other sites such as those of non-profit and faith-based groups.
- Polling by random selection by either USPS mail, email or phone.
- Conducting individual in-person interviews.
- Assembling and interviewing focus groups.

EAPD Standard Operating Procedure (SOP)

Policy Review: Use of Force

The Use of Force policy was reviewed as it directly relates to the State's purpose of the overall review of police departments. For the EAPD, this policy comes into play with officers in the field a few times each month.

Within the past 10 years, the EAPD has one complaint on file, which occurred number of years ago, alleging that an officer employed excessive use of force.

The Committee discussed various ways in which an officer could address a situation where use of force would be contemplated. Basic items with which officers are currently equipped include batons, pepper spray and firearms.

The issue was raised that perhaps the addition of tasers would afford an officer an interim level of force to be used prior to the possible discharge of a firearm. It was reported, however, that currently the incidents of officers utilizing pepper spray to subdue a suspect only occur one or two times per year. Further, is even more rare of an occurrence when an officer draws a firearm. The addition of tasers would be an added expense and also necessitate an entirely new training segment.

EAPD officers are routinely trained in the proper implementation of the policy relating to use of force. The Police Chief reported that the Orchard Park Police Department received a grant and had purchased an excellent simulator program that EAPD officers have utilized in training. It is sophisticated and allows for a number of different scenarios in which an officer has to quickly decide how to react to a particular situation.

Other segments of this policy discussed included that there is ban on chokeholds as a means to subdue a suspect. Further, an officer witnessing a fellow officer employing excessive force has a duty to intervene, and failure to exercise that duty can result in disciplinary action for the witnessing officer.

EAPD SOP Policy Review: Mobile Video Recording System

The Committee reviewed the Mobile Video Recording System policy for the EAPD which covers the use of cameras both mounted on patrol vehicles and body cameras worn by the officers.

A minor notation was made that the policy needed to be updated with regard to items like references of obsolete technology, i.e. storage of footage on VHS videotapes that should be changed to storage on current digital media such as DVDs.

The Committee discussed at length the policy and its practical implementation in the field. It was the consensus of the group that this technology is now an integral part of routine police work and should be utilized consistently for the benefit of the officers and the department.

The group was satisfied that both the cameras mounted to the patrol vehicles and the body cams are all automatically simultaneously activated when an officer turns on the lights on the patrol vehicle. The cameras continue to record as long as the patrol vehicle lights are activated. The group discussed, however, how the policy addressed when an officer could turn off the camera, that may be left up to the discretion of the officer.

Recommendation

A recommendation of the group is to review other similar policies to examine language to ensure that the EAPD policy does not result in time periods when an officer might turn off a camera and subsequently an incident could occur that could be called into question as to what happened which cannot be resolved due to lack of a digital recording.

A larger and overall recommendation is that as technology advances and the purchase of new equipment is needed, it should not fall exclusively on the Village, nor other local police jurisdictions around the State, to wholly fund these purchases. The Federal and State governments should prioritize making funding available to local law enforcement agencies to make these purchases and provide continued training to officers.

EAPD SOP Policy Review: **Responding to persons experiencing a mental health crisis**

The Committee discussed that the EAPD does not currently have a policy pertaining to incidents when officers are responding to persons experiencing a mental health crisis. The group reviewed a model policy developed by the International Association of Chiefs of Police (IACP).

Some priority elements discussed to be included in such a policy were de-escalation of a situation and training of officers in crisis intervention. The IACP model policy details strategies that can be employed. Those include the following:

- Take steps to calm the situation. Where possible, eliminate emergency lights and sirens, disperse crowds, lower radio volume, and assume a quiet nonthreatening manner when approaching or conversing with the individual. Where violence or destructive acts have not occurred, avoid physical contact, and take time to assess the situation. Officers should operate with the understanding that time is an ally and there is no need to rush or force the situation.
- Create increased distance, if possible, in order to provide the officer with additional time to assess the need for force options.
- Utilize environmental controls, such as cover, concealment, and barriers to help manage the volatility of situations.
- Move slowly and do not excite the individual. Provide reassurance that officers are there to help and that the individual will be provided with appropriate care.
- Ask the individual's name or by what name they would prefer to be addressed and use that name when talking with the individual.
- Communicate with the individual in an attempt to determine what is bothering them. If possible, speak slowly and use a low tone of voice. Relate concern for the individual's feelings and allow the individual to express feelings without judgment.
- Where possible, gather information on the individual from acquaintances or family members and/or request professional assistance, if available and appropriate, to assist in communicating with and calming the individual.
- Do not threaten the individual with arrest, or make other similar threats or demands, as this may create additional fright, stress, and potential aggression.
- Avoid topics that may agitate the individual and guide the conversation toward subjects that help bring the situation to a successful conclusion. It is often helpful for officers to apologize for bringing up a subject or topic that triggers the person in crisis. This apology can often be a bridge to rapport building.

The group also discussed the use of professionals trained in dealing with persons in a mental health crisis. Erie County has resources that the EAPD can access to assist in these situations. When it is not practical to have such a professional on the scene when a

call is initially answered, officers can ensure follow-up from where appropriate professionals reach out to individuals in need.

Recommendation

The Committee recommends that the EAPD develop a comprehensive policy to be included in the Department's Standard Operating Procedures detailing how officers shall respond when answering a call involving persons experiencing a mental health crisis. The EAPD policy may be fashioned after the IACP model policy.

Further, it is recommended that a comprehensive training program be developed to accompany the policy so that officers are properly equipped to handle situations involving persons who may have mental health issues. Training should occur when the policy is first developed and be routinely repeated and reinforced, including any new strategies developed and recommended by mental health professionals.

Recruitment and Hiring Practices

In this reform process, the State advocates a chief principle be employed for local police agencies. That is, to ensure an agency reflects the diversity of the community it serves. In reviewing the demographics in the introduction of this report, the metrics bear out that the ethnic makeup of the EAPD is relatively reflective of the community.

The State also has a number of suggestions for recruiting a more diverse work force, such as re-evaluating testing and hiring practices to remove barriers in hiring underrepresented communities. The Village and EAPD have no ability to enact these suggestions, as hiring practices are dictated by State law and County rules under the umbrella of Civil Service.

Until and unless there is sweeping reform of hiring practices for law enforcement personnel at the State and County levels, the EAPD remains constrained by the current system with no local option that would promote further diversification of the local police force.

Funding Sources

Nearly all funding for the EAPD is provided through local Village taxes. Those costs are offset roughly 50% through a contract with the Town of Aurora for provision of law enforcement services in the entire Town outside the Village. As is the case of most local governments with police departments, funding for police comprises a significant portion of the overall Village budget. Should the Village be subject to further mandates and reforms related to police services, as dictated by Federal and State authorities, it is imperative corresponding funding be provided by those entities so that Village and Town residents are not shouldering the burden of those increased expenses.

Conclusion: Draft Report*

The Committee that participated in this process was thoughtful and engaged. A number of suggestions for improvements to be made by the EAPD have resulted and it is expected those will be implemented in a timely fashion.

The nature of policing in the Village of East Aurora and Town of Aurora is typical of a suburban area geographically distanced from more populous cities and towns. A review of the routine day-to-day activities and history of complaints supports the conclusion that the more serious concerns involving police interactions are not present, and certainly are not prevalent, in the East Aurora Police Department.

Residents of the area covered by the EAPD have a high expectation of receiving superior service from the members of the police force. The majority of survey respondents indicated that this level of service is being delivered on a consistent basis.

Current leadership of the EAPD, including the Chief and command staff, with the support and leadership of the Village, including the Mayor and Trustees, and the Town, including the Supervisor and Board members, have demonstrated commitment to ensuring the force is highly trained and responds appropriately to the countless variety of situations officers encounter daily.

It is expected this level of professionalism shall be consistently maintained and evaluated for continual improvement, ensuring that the core values contained in the EAPD Mission Statement are embedded into the daily operations of the department.

*The “Conclusion” section of this draft report, and all other sections, may be amended and/or appended as a result of public comments received and reviewed by the Committee, prior to the final report being issued.