

## Executive Order 203 Compliance Group

November 4, 2020 Meeting Notes

Members Present: Malta Town Supervisor Darren O'Connor; City of Mechanicville Supervisor Tom Richardson; Undersheriff Rick Castle, Saratoga County Sheriff's Department; Dr. Michael Prezioso, Commissioner of Mental Health & Addiction Services; District Attorney Karen Heggen; Public Defender Andrew Blumenberg; Assistant County Attorney Michael Hartnett – Advisor to the Group; Chief Shane Crooks, City of Saratoga Springs Police; Dan Sisto, Counsel to Saratoga County PBA; Ryan Mahan, Saratoga County Deputy Sheriff PBA; Sergeant Michael Shudt, Waterford Police Department; Patrol Sergeant Paul Pecor, Stillwater Police Department.

Dr. Prezioso welcomed those in attendance thanked everyone for coming. He said the Group had met the week before to discuss organization structure. He asked anyone who spoke to announce themselves for those on the phones as well as those in the room.

Dr. Prezioso reminded the Group and those in attendance of the process, which is designed in furtherance Executive Order 203 entitled "New York State Police Reform and Reinvention Collaborative". The Order directs a comprehensive review of current police force deployments, strategies, policy & procedures, and practices for addressing the particular needs of the community served and to promote community engagement to foster trust, fairness and legitimacy. Stakeholders including but not limited to membership and leadership of the local police force, members of the community, interested non-profit and faith based community groups, the local office of the District Attorney, the local Public Defender, and the local officials shall be consulted. Members have identified stakeholder groups, have been or in the process of being identified and will have the opportunity to speak to the Executive Order 203 Compliance Group for 3 minutes each. Members of the public are invited to call in to listen to stakeholder input and Compliance Group discussion. Stakeholders in the public are strongly encouraged to submit comments in written form and a web page is being developed for this purpose and is expected to be available soon. The input will be incorporated in a report to the Board of Supervisors in time to meet the Governor's April 1<sup>st</sup> 2021 deadline.

Dr. Prezioso asked Mr. Castle if he had a particular order that the invited guests would speak. Mr. Castle said there was no specific order. He did want to note that he had contacted all the police agencies in Saratoga County. The ones represented here agreed to come today. The other agencies were provided with the outline and afforded the opportunity to submit written comments if they didn't want to be in person today. That included the other law enforcement agencies in Saratoga County as well as the Immigrations and Customs Enforcement who may or may not submit written comments and had declined to attend.

Dr. Prezioso asked Chief Crooks to begin.

Mr. Crooks said "I am Chief Shane Crooks with the Saratoga Springs Police Department. A couple things he wanted to bring up and mention at a County level that we could utilize at a City level is that we do not have a City Mental Health or a City Social Services Program. But at the City level, we do have three mental health facilities inside Saratoga Springs. Increasing some sort of type of mobile crisis outreach with a little bit of a faster response or almost a telephonic medicine situation or something along those lines would drastically help us out. We have a large homeless population that is growing inside the City. Some of those also fall in line with the mental health situation. If we could get some sort of Social Services more readily available inside the City, develop a place for them to reach out and get the programs that they need and get those programs whether they are willing to accept that help. That would be greatly appreciated. Other than that, from a working relationship with the Sheriff's Department we have a great working relationship. We work together in many different situations. Our basic needs that I am looking for right now is the increase in mental health. Thank you."

Dan Sisto on behalf of the Saratoga County Sheriff's PBA "Just wanted to touch quickly, basically the heart of these problems comes down to questionable levels of trust amongst different communities throughout the State. That's ultimately, if you had to boil it down to one point, that's why this process is necessary. One of the concerns that our guys have is making sure that the decisions made aren't to, trying to use the words properly, appease or just minimally address the problem in a way that creates a new problem. Without getting into specifics on any legislation that has been or may come about going forward, we want to make sure our voices are heard in that. We want progress. We want to make sure the system is better. We absolutely agree with many of the different

communities that have addressed concerns. There is ability for advancement and proper treatment and fairness. Completely agree with that. What we don't want to do is to have things go so far in a different direction that it creates inadvertent problems. And one of the most, I think, important things to consider going forward is that the problem isn't necessarily always what happens. It's the explanation. It's the exchange of information. It's the understanding from all sides as to why things happen. And personally, I can't say I speak on behalf of all of the members, but I think as a general observer of government for the better part of 25 years of professional experience, we lack both as a police culture as well as government. And explaining what happened after the incident. We are very good at obtaining information. We are very good at reacting to the use of that information. Unfortunately, we are not really all that great, and as our esteemed DA will let you know, there is a lot of times you can't give out information because the process hasn't played out in court. But we have to do a better job of keeping the communities aware that we respect their understanding of the process; that there was a reason for what was done; and making sure that that ultimately is what will quote, unquote appease the communities. An understanding of what is happening. Not just we are going to do what we are going to do and you're not gonna understand why. How we get there that's the big question, obviously. But rather than, in my opinion, government looking to do massive overhauls and then figuring out how they fix that problem, I think we actually have a decent system that if we understood it, explained it, and we operated within that realm we would have a lot less problems. As far as the specifics if anyone has any questions I can come back up and talk about that later. I just wanted make sure we got that on the record. Thank you."

Dr. Prezioso asked if anyone else wanted to speak. With no one else wanted to speak, he opened the meeting up to discussion within the Group. If anyone had any questions for any of the folks who had spoken this morning we can follow up directly with them to.

Dr. Prezioso opened the floor to discussion.

Mr. Blumenberg said there had been indications that the problem was not what happened, but the explanation. He asked Mr. Sisto what his opinion was on universal body cameras.

Mr. Sisto said the body camera issue becomes somewhat contentious. Not in a fact that there is or is not body camera video. His personal belief is more often than not the video is beneficial to both sides being the defense and the police officer; or whether you are looking at it socially the questioning of the police action as well as the administration of the policies thereof. They're generally helpful in that it does explain and give some communication just by visibly watching it. The concerns that come about, he went to a national conference on body cameras, from most of the unions that he deals with is not in and of itself the wearing of the camera. It's the policy surrounding the camera. For starters, the physiology of the body under massive stress, the mind comes in to a tunnel vision. It takes some time, a day or two, for the mind to calm down, process out and remember the specifics. He has been a part of hundreds of police officers, mostly troopers, helping them through the process. The beautiful thing about the camera is it catches what it catches perfectly. The negative part is it only shows one perspective. A camera does not take into account fear, emotion, stress, the knowledge the police officer arrives with, or the lack thereof. It only catches what it catches. When video is shown immediately, it gives the viewer a perspective but not necessarily the perspective the police officer have when they show up. His point is, the camera itself is not a problem. The policies, procedures and the way it is implemented into the system, matters way more than actual wearing of camera.

Mr. Blumenberg asked Mr. Sisto how that is tweaked to get the policy right. That's a police department policy.

Mr. Sisto said having people who understand that it's not as simple as the cameras should be worn or shouldn't be worn worked on that policy. It is easy to have a personal opinion. A lot of people in the public have opinions and they don't understand the emotional side, the physiological side, and the policy side. He gave an example of a possible suspect waiving a gun in a store wearing a blue shirt and jeans. The police officer arrives and out walks a guy with the height, weight and blue shirt/jeans. The police officer orders that guy up against the wall, that officer believes he may be in a position of losing his/her life as well as protecting those around the scene. Then out from the door comes another person with a blue shirt and jeans the camera is going to pick up the cop missed it. The cop's eyes are not going to leave the first person in all likely hood. It's very easy for the public to question how the cop missed that when the person walked right out in front of him. The problem is the police officer is intent on the first person he missed the second one. The public doesn't see that. This is a much broader problem than simply

let's put on cameras and here's the policy. It changes by the incident. It changes by the people making the decision. He said he didn't know if he had a solid answer other than to say people are needed on both sides to understand it's more than just the lens that picks up the incident. There should be way more that goes in to a policy.

Mr. Blumenberg asked Mr. Sisto if he had a position on this. Mr. Sisto said he has a position that cameras can be beneficial if properly implemented. It's the implementation. It's not the camera. The camera is just equipment. A police officer has many pieces of equipment on their belts. How they are used and what the policies are is what matters to him. Mr. Blumenberg said that is his question. He asked Mr. Sisto if he was in charge of the implementation. Mr. Sisto said he wished he was. Mr. Blumenberg said for the Sheriff's Department or the State Police that's an internal decision made by each department. Mr. Sisto said it will be unless the legislature decides to implement it a different way as they did against the State Police.

Mr. Richardson asked if Mr. Sisto thought it would be more appropriate that if there was an incident that video from that incident wasn't in the news that same night. That the video would be held as evidence until there was an actual court case. It seems like whenever there is an incident on TV, the video is out right away. People start to make judgements before all the facts are released. Mr. Richardson said wouldn't it make more sense to hold that video as evidence so that it wasn't in the media the same night. That would give the police agencies total recall as to exactly what happened, how the police officer was feeling and what took place. Wouldn't this spare the controversy with the public? Mr. Sisto said he agrees with his premise. What they found is the incidents that are less controversial and are very clear on the camera a lot of them are being released early to hopefully appease the emotional stress of the community. He thinks his position would be if the standard is you can't release it for "x" number of hours so that there is an expectation of it's release. Mr. Richardson said this is one of the reasons they are there; to give this information to the Governor's office. There should be a statewide policy and that's his thought.

Mr. O'Connor said he agrees with the comments made. If police agencies are in a position to release a written statement about what proceeded the videos as they released, he thinks often this can lead to disruption and civil unrest when videos are released out of context and what proceeded the interaction.

Ms. Heggen asked Mr. Sisto if he was suggesting a blanket policy. Her concern is for criminal cases, the cases will be tried in the public realm rather than within the court system. She is wondering why there is an expectation why there should be a release of information outside of the context of a process. In NYS there are new discovery laws and dissemination is a concern. She doesn't think there is anything that can be done about that. She said the conversation of video and it's release gets us down a slippery slope. Mr. Sisto responded that perhaps he wasn't clear. His point was the policy shouldn't be that the video has to be released but that there should be a minimum amount of time that it will not be released. There should be a minimum for a basis for an investigation and the ability to make sure there is a procedure in the law or process for when things will be released or under what circumstances. He said there should not be an instant response to let's just send the video out. That is more detrimental. If there is no expectation to see the video for a minimum amount of time, at least the public understands there is a cooling off / investigative period. There shouldn't be an expectation that the video will go right out to the public. Ms. Heggen said Mr. Sisto is saying there should be a protocol about the video release and that's where her concern is. Expectation of release of videos does cause concerns with criminal cases.

Mr. Castle thanked Mr. Sisto for addressing the topic. He said they are on the same model on this topic. He thinks one of the issues with dissemination of video in law enforcement is why one case would differ from another. This is where a written protocol would be helpful. Without a protocol, there will be issues within the departments. Mr. Castle said to Mr. Blumenberg's question about the actual creation of a policy. The creation of the policy would be up to the Sheriff's Department. However, it is not just going out and buying cameras. Storage and manpower in the Sheriff's Office to catalog and view the video as well as the DA's Office and the Public Defender's viewing the video is not an easy task. This could easily become a half million-dollar project and a funding source would have to be identified. He agrees as he has attended conferences on body cameras. There is a lot to be considered in the process and procedures.

Mr. Richardson said he agrees with Mr. O'Connor who said there should be a statement out in front of the actual video being released. There may be a couple officers at a call with different camera views. Unfortunately, the news

at times cherry picks what video they show. Video should not be released without a statement ahead of it. Somehow, there has to be a compromise so that everyone is protected.

Dr. Prezioso said he is curious about the Group's thoughts. He is hearing balancing due process with the need or the right of the community to know the perimeters, might there be not necessarily for the number of days, but under what circumstances the release of that footage be appropriate.

Mr. Sisto said the DA and her association could speak more eloquently and more detail on this subject, officers don't go in to situations thinking they will have to make life and death decisions. The ultimate goal of criminal justice and law enforcement is to make sure the community stays protected both immediate in a proactive way but also in a reactive way. If an officer addresses a problem and the problem is immediately returned to society because of a foolish decision to release video at a time where it compromises criminal prosecution of a case that's just foolish. Mr. Sisto said the DA's points are completely valid, and should be considered going forward. He thinks he would leave the concerns of properly prosecuting the case to the District Attorney's Association and to the various DA's in the State. Mr. Sisto said he's not sure how this gets accomplished.

Mr. O'Connor said it's also not just a problem of body cameras and the release of the video. They are not in control of the vast majority of video out there that comes from a zillion of cell phones that are on the minute there is police citizen interaction. Those come out within seconds and are available to the world. One of the things this Group may consider is the police polices to respond to those videos, especially when they don't show the whole picture.

Ms. Heggen said she feels like we started with the initial question from the Public Defender, which is what your position on body cameras is. Now we have jumped over the entire concept and conversation about why we want body cameras, why we don't want them, under circumstances are they appropriate, under what circumstances are they not appropriate. She said talking with Undersheriff Castle as it relates to financing and preparing the protocols set for them. We've jumped over all of that and gone past the prosecution. We are just talking about getting things out to the public. That concerns her because of the process, the justice system and we are going to be involving people who are not subject to police unions and policies. We are going to be dealing with the public where their identity/their situation is going to be released without taking into account the relations to victims. The system of justice in place allows for the protection of information. The review of information coming back from scene could be voluminous. We should not be rushing to the end product and are missing a huge step in what we deal with in our criminal just system. There are rights of citizens and criminals involved that must be taken into account before we get into conversations that bring us to the end product. We should be talking about the benefits of them not the dissemination of information.

Mr. Blumenberg said he was interested from a criminal prosecution standpoint. He asked Mr. Sisto if he was for it as far as prosecuting cases. He knows some departments don't have them at all. Mr. Sisto said he wasn't following Mr. Blumenberg's question. Mr. Blumenberg restated his question. Does Mr. Sisto believe in body camera should be equipped for the officers as far as criminal prosecution is concerned. Mr. Sisto said his concern is in the policy surrounding the camera and not the wearing of the camera. Mr. Blumenberg asked Mr. Sisto if he thought wearing of the camera enhances the department's ability to prove their case. Mr. Sisto said most of the time, yes. Mr. Blumenberg said it would help with transparency, would he say. Mr. Sisto said to a degree. The camera sees what it sees without emotion, without processing, without experience, without bias, and without everything. That's why people like them because they have no bias. What people don't understand is the camera has not emotion, no thought, no training. It is an object that has a purpose and does that purpose well. He said it depends on the scenario. It is a difficult issue because the camera does not speak for itself. It just shows what it shows. Cameras are helpful but are not the end all.

Mr. Castle said this whole topic circles back to the reason why the Group is there. In many communities, the public is demanding the release of body camera because of the loss faith in law enforcement. Trust that law enforcement will do the right thing has been lost and maybe that's where body cameras came from to begin with. The big issue is the demand for the release of video because of trust. Too many times the public has been given the wrong information or misleading information. It is a good tool, in his opinion, to strengthen the relationship but it does need to be dealt with judiciously so everyone is treated fairly.

Mr. Prezioso said there is a couple of things he is thinking about. One is due process which is fundamental to what citizens are entitled to. Whether or not it's this Group's role to recommend body cameras or not, how do we balance due process. Balancing the demands for immediate release and access, do we see it as our role to recommend body cameras or not. Do we see it as our role to recommend the perimeters under which they are released? Is it part of our process?

Ms. Heggen said she would suggest as she looks at the Executive Order that it talks about considering strategy, policies, procedural justice, addressing systematic racial bias or racial justice in policing, implicit bias training, de-escalation and the list goes on and on. She would suggest that an approach could be that the conversation be picked up on the release of body camera or other information is done to address the issues and concerns that the public might have. Maybe one of the things we can do, is coming up with ways to educate the public better on the process and system that is involved without getting down into the weeds of who, what and when. A lot of what we can do is identify issues, perhaps present pros and cons, and bring about suggestions on pieces of that that we need to work on to move forward as a whole. Going back to what our charge is, the Executive Order says to involve stakeholders and entities as to where information can flow, how it can and how we use that to achieve justice practices.

Mr. Castle said later in the process, we would be hearing from a representative from the NY Civil Liberty Union. The ACLU has written extensively on body cameras and reviewed it. They are in a difficult position trying to weigh personal privacy versus the need for transparency.

Dr. Prezioso asked if there were any other questions or comments.

Mr. O'Connor said he had a question about the mental health aspect. He thinks the mental health aspect is a big part of the Group's charge to figure out the relationship between police departments and mental health organizations in making sure the division of responsibilities is correct. He thinks it is interesting to hear from Police Chief Crooks that it would be good to allow for telemedicine and for quicker response by mental health professional. For him, he would love to see examples, antidotes, actual cases where the police were involved in a situation and the presence by mental health professionals by either telemedicine or on the scene. This may help the Group decide where to go in terms of recommendations. In the future, if there were examples he asked to see them.

Chief Crooks said he didn't bring any with him. He said the issues he has run into is the response time when there is an incident. Law enforcement has been tasked to handle these situations because we are immediately available, out patrolling the roads and can get their quicker as some of the situations need immediate attention. Having that ability to reach out to people has greatly helped what they can do on non-priority situations. They are currently working on homelessness where there were multiple organizations were working with them. He said having the ability to have someone that can respond quickly or be there in that case, he believes it would help. He said he said telemedicine because it is a new wave and added he doesn't know how that would be implemented. If there were something along those lines where they could get a faster response that would have helped some of the situations they have had. Mr. O'Connor thanked Chief Crooks.

Mr. Sisto said he thinks the telemedicine is an excellent idea if it can be properly implemented. There is significant discussion in State Police organizations around the Country of having a mental health professional on staff and actually physically respond. He does not want to go down another rabbit hole but he wants to put on the record that he/we do not believe that that is a positive step to physically have that person arrive on the scene with the officers, until that scene is safe. The mental health expert would be unarmed and untrained on that scene. Who would make the decision on the scene as to the person they responded for meaning would the mental health expert say they got it and not the police officer. The ability to put the expert on a screen may be helpful but to have them on the scene that is not secure is not a good decision or policy.

Dr. Prezioso wanted to be clear what hat he is wearing as Chair of the Group. He is also the Commissioner of the County's Mental Health and Addiction Services. He has to say of a career that's just about 30 years long, he has the occasion to work with folks that are very violent, past history of extreme violence and so forth. There comes a time, and this will jive with what you're saying, when the situation is simply is not safe and is beyond a person regardless of how skilled they might be to penetrate through a deeply psychotic manic agitated veneer. That doesn't mean they aren't at risk. It doesn't mean the person isn't responsible for what they are doing. It really depends on the individual and the circumstances. He does think when the Group gets to the human services stakeholders he

will submit written feedback and weigh in a bit. He thinks there may be a place if it rises to a level where a person is agitated and poses a threat to their own safety and the safety of officers mental health, there may not be the need of someone like him to be sure everyone is safe. Sometimes the expectations around what a mental health expert is capable of doing, sometimes over estimated and sometimes under estimated. The real deal is in any circumstance you are not going to know for sure. There are many variables. There may be a way to integrate the services. You have to have safety before you can be therapeutic. The presences of a uniformed officer in many instances has been extraordinarily helpful.

Chief Crooks said he wanted to clarify that in no way was he suggesting sending social workers to violent scenes. He was thinking more along the lines of what we have done with Well Spring and domestic violence. Once we get to a situation, determine it is safe and we see we need additional resources then we can have someone to reach out to. He agreed that sending a social worker into a situation that is volatile is not a good idea.

Dr. Prezioso said the Chief had talked about response time. He said there is a mobile crisis resources and have on call professionals throughout the County's system of care. Unfortunately they are not staffed 24/7. There are places cell service is a consideration and a barrier. It's been a slow process to develop the infrastructure.

Mr. Castle said to address Mr. O'Connor's question. He said there is a crisis negotiator program in the Sheriff's Department who have been trained in these situations. He gave an example of a recent situation where the negotiators contacted the person by phone, built up a rapport, and finally got the person to come out. The situation ended peacefully and got them to Mental Health. What happens after that is out of their control and in some cases, these people end up right back on the street. Perhaps out of this Group will come a recommendation to the Governor about the lack of beds and facilities for these cases. This program has been very help. Dr. Prezioso said the number of beds has been reduced across the State. These are the beds of last resort and he spoke of CDPC, lack of beds and workers. Mr. Castle added that the problem gets worse if the person they are responding to is a juvenile. He said finding juvenile beds, with the Raise the Age, is extremely difficult in NYS. Saratoga County has 1.5 beds at the facility in Albany. Mr. Castle spoke of the issues surrounding this issue. Ms. Heggen said the topic of Mental Health, we will be spending much more time on, a suggestion could be making sure law enforcement knows what resources are available and letting the public know the resources too. People don't know what people don't know and maybe there needs to be public outreach to alert the public of available resources.

Dr. Prezioso thanked the law enforcement personnel that came. He said the next Group meeting would be Tuesday, November 10<sup>th</sup>. The School Superintendents have been notified, given the outline and will be given call in information.

Dr. Prezioso said the website is being worked on and will be up and running soon.

Mr. Castle asked the law enforcement in attendance to submit in writing responses to the outline he had made available to each of them.

Mr. Richardson said Mrs. Heggen made a good point here today. He said there are many resources in the County that are unknown. He thinks public education of these resources would be good.

On a motion by Mr. Richardson, seconded by Mr. Blumenberg, the Group unanimously adjourned.

Respectfully Submitted,

Pamela Wright  
Clerk of the Board