

EXECUTIVE ORDER 203 COMPLIANCE GROUP
JANUARY 2021 - REPORT



Dr. Michael Prezioso, *Chairman*
Undersheriff Richard Castle, *Vice Chairman*
Darren O'Connor – Supervisor, Town of Malta
Thomas Richardson – Supervisor, City of Mechanicville
Opal Hinds, Esq. – Community Member
Karen Heggen – Saratoga County District Attorney
Andrew Blumenberg – Saratoga County Public Defender

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Appendix Documents can be found at:

www.saratogacountyny.gov/departments/sheriffs-office/executive-order-203-advisory-group

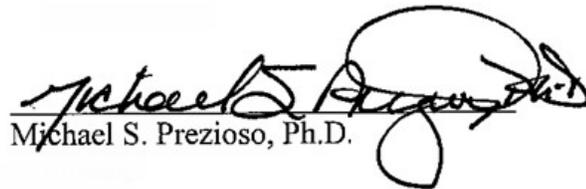
- Appendix A: Executive Order 203
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Statement from Chairman Dr. Michael Prezioso

The Executive Order 203 Compliance Group recognized, from the outset, its responsibility to engage the broadest representation of community sentiment regarding the policing practices of the Saratoga County Sheriff's Office. The Group's work was undertaken with the understanding that the result would provide a blueprint, in the form of recommendations, for consideration by the Saratoga County Board of Supervisors.

To those ends, more than 1000 invitations for participation were extended, and on the basis of feedback provided during the eight public meetings, hundreds of survey responses, and emails received, a set of ten recommendations, with supporting documentation, is contained herein.

On behalf of the Group, I would like to extend thanks to the Saratoga County Board of Supervisors for its enthusiastic support of the Group's activities. As Chair, I extend my appreciation to fellow Group members, who spent countless hours devoted to the project. And most importantly, sincerest thanks to the many participants in the process. There is no clearer indication of the dedication of the community to life in the County.


Michael S. Prezioso, Ph.D.

Overview of Saratoga County

Established in 1791, Saratoga County is located in the eastern portion of New York State and is considered part of the Capital District Metropolitan Area and New York's expanding "Tech Valley." Saratoga County is comprised of a mix of urban, suburban and rural communities. Saratoga County has consistently been one of the fastest-growing counties in New York. The County is bisected by U.S. Interstate 87 ("Adirondack Northway") and is a tourist destination in addition to serving as the gateway to the Adirondack Mountains.

According to the 2010 U.S. Census Bureau, Saratoga County has a total area of 844 square miles. The County is bordered (clockwise) by Warren County, Washington County, Rensselaer County, Albany County, Schenectady County, Montgomery County, Fulton County, and Hamilton County. Saratoga County is comprised of two (2) cities, nineteen (19) towns, and nine (9) Villages. According to the 2010 United States Census, Saratoga County had a population of 219,607 and the population density was 271 people per square mile¹. In 2019, the population was estimated at 229,863². Pursuant to the 2010 U.S. Census, the racial makeup of Saratoga County was 94.3% White, 2.4% Hispanic or Latino or other race, 1.8% Asian, 1.5% Black or African American, 0.2% Native American, 0.0% Pacific Islander, 0.5% from other races, and 1.7% from two or more races.

The Saratoga County Sheriff maintains jurisdiction over the entire county, concurrent with other law enforcement agencies including: New York State Police; New York State Park Police; Saratoga Springs Police Department; Mechanicville City Police Department; Ballston Spa Police Department; Waterford Police Department; Stillwater Police Department and the South Glens Falls Police Department. Saratoga County Sheriff's Office actively patrols the entire geographic county, except in jurisdictions with City, Town or Village Police Departments. In those jurisdictions the Sheriff's Office has secondary jurisdiction and often provides support to those municipal law enforcement agencies.

¹ U.S. Census Bureau – Profile of General Population and Housing Characteristics, 2010; retrieved January 20, 2021.

² U.S. Census Bureau – Quick Facts, Saratoga County, retrieved January 20, 2021

Executive Order 203

On June 12, 2020, Governor Andrew M. Cuomo issued Executive Order 203 entitled the “New York State Police Reform and Reinvention Collaborative.” (Appendix A) Executive Order 203 requires that the Chief Executive Officer of all municipalities within New York State who have a law enforcement agency must perform a comprehensive review of strategies, deployment practices, and policies for the purpose of addressing the needs of communities served by the police agency and promote community engagement to foster trust, fairness, and legitimacy and to address any racial bias and disproportionate policing of communities of color.

Executive Order 203 directs each Chief Executive to convene the head of the local police agency and stakeholders in the community to develop such a plan and consider evidence-based policing including: use of force policies; procedural justice; any studies addressing systemic racial bias or racial injustice 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 intervention; 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.

Executive Order 203 provides that each political subdivision in coordination with the law enforcement agency must consult with stakeholders including membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the District Attorney; the Public Defender; and local elected officials. At the conclusion thereof, a plan must be adopted to implement recommendations resulting from the review and consultations and such plan must be offered for public comment. After public comment the plan must be provided to the local legislative body, which shall ratify or adopt such plan no later than April 1, 2021.

Executive Order 203 Compliance Group

Background

In response to the issuance of Executive Order 203, on October 14, 2020 the Chairman of the Saratoga County Board of Supervisors appointed seven individuals to the Executive Order 203 Compliance Group (“Compliance Group”). The group is comprised of amongst others, local elected officials, the District Attorney, and the Public Defender.

The Saratoga County Executive Order 203 Compliance Group:

Dr. Michael Prezioso, Director of the Saratoga County Mental Health Clinic, *Chairman*
Undersheriff Richard Castle, *Vice Chairman*
Darren O’Connor – Supervisor – Town of Malta
Thomas Richardson – Supervisor – City of Mechanicville
Opal Hinds – Community Member
Karen Heggen – Saratoga County District Attorney
Andrew Blumenberg - Saratoga County Public Defender

Procedures Utilized

The Compliance Group first convened on October 27, 2020 and elected a chairman and vice chairman. The group collaborated and discussed implementation of the Executive Order and how to most effectively engage the community in seeking input as required. In developing a process for collection of public input, the Compliance Group utilized the New York State Police Reform and Reinvention Collaborative Workbook published by the NYS Governor’s Office in conjunction with Executive Order 203.

Following the Workbook, the group determined that a multi-faceted approach would be utilized to encourage the largest volume of feedback from across the community. This effort would include making a survey available on the county website³, encouragement to submit written comments through email, providing a survey on specific policing topics addressed in the Executive Order, direct solicitation of input from a variety of groups and individuals, and conducting meetings wherein stakeholders could provide comments and feedback and committee members could engage those stakeholders in discussions. All of this was done with the limiting factors regarding public gatherings because of the COVID-19 pandemic. A dedicated email was

³ Appendix B – Full Survey

created to receive comments submitted by the public. A survey was drafted and posted on the county website. The survey was drafted using the specific points of inquiry outlined by the Executive Order and included additional materials such as current policies.

As an advisory committee to the Board of Supervisors, the Compliance Group made efforts to make the process as transparent and open as possible, including taking notes or minutes of meetings and publishing those meeting notes on the county website⁴; having a public call-in telephone number to allow members of the public to listen to the sessions; and conducting multiple meetings using Zoom technology to encourage participation.

As the process evolved in the late fall and winter of 2020, the Compliance Group received significant feedback regarding publication and notice of meetings in addition to criticisms of the survey that was being utilized. In response, the Compliance Group used efforts to further publicize meetings including Press Releases and both sending invitations seeking comments to more stakeholders. The group also started re-sending invitations to stakeholders that had previously participated in an effort to have those stakeholders “pass on” the invitation to their networks and contact lists. Additionally, a second survey⁵ was created and published with the specific objective of making the survey both shorter and easier to navigate.

The Compliance Group invited specific agencies and stakeholders identified by the Executive Order, including membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; and local elected officials. Between November 4, 2020 and January 7, 2020, the Compliance Group sent over 1,000 invitations to stakeholders, agencies, and individuals. All comments and feedback received by the group was considered.

The Compliance Group held multiple in-person sessions to encourage participation and submission of comments. The sessions were both directed towards specific stakeholders and also included multiple sessions over Zoom for any member of the public to participate. The sessions were conducted in compliance with applicable COVID-19 restrictions imposed by the Executive Order and Department of Health Guidelines. The Compliance Group held eight (8) meetings wherein public input was sought on November 4, 2020; November 10, 2020; November 18,

⁴ Appendix B

⁵ Appendix C – School Survey; Appendix D – Short Survey

2020; December 2, 2020; December 10, 2020; December 16, 2020; January 5, 2021; and January 7, 2021. Meeting Notes are attached hereto as Appendix E.⁶

The first six meetings were dedicated to specific stakeholder groups, including: membership and leadership of the local police force (November 4, 2020); school administrators (November 10, 2020); health and human services professionals (November 18, 2020); local non-profit and faith-based groups (December 2, 2020); local elected-officials (December 10, 2020); local community activist groups and stakeholders (December 16, 2020). Members of the public were encouraged to participate in an open “Zoom” meeting on January 5, 2020 and January 7, 2020. The last meetings were held after business hours (6pm) to increase public participation.

Stakeholder Input:

Over the course of the eight public meetings the Compliance Group received in-person comments and feedback from thirty-two (32) stakeholder groups; three (3) local elected officials; and fifteen (15) individuals⁷, including:

- Saratoga County PBA
- Saratoga Springs Police Department
- Waterford Police Department
- Stillwater Police Department
- Backstretch Employee Service Team
- MLK Saratoga
- Saratoga Immigration Coalition
- Saratoga Pride
- Saratoga Peace Alliance
- Planned Parenthood
- All of Us
- Ballston Spa Central School District
- Burnt-Hills Ballston Lake School District
- Corinth Central School District
- Edinburg Commons School District
- Galway Central Schools
- Mechanicville School District;
- Saratoga Springs Central School District
- Schuylerville School District
- Shenendehowa Central School District

⁶ Recording of the January 5, 2021 and January 7, 2021 meetings can be found at: <https://youtu.be/9yTezOWg01w>; and <https://youtu.be/uDVtloyR6cl>

⁷ Participants submitting comments as individuals and not representative of a community group are not reflected here to maintain anonymity.

- South Glens Falls School District
- Stillwater School District
- Waterford-Halfmoon Schools
- Community Alliance Church
- AME Zion Church
- Grace Fellowship Church
- Upper NY Conference of the United Methodist Church
- Hon. Tara Gaston – Supervisor, Saratoga Springs
- Hon. Edward Kinowski – Supervisor, Stillwater
- Hon. Gary Putnam – Mayor, Round Lake
- Saratoga County Veteran Services Agency
- Transitional Services Association
- Saratoga County Mental Health and Addiction Services
- Healing Springs Recovery Center
- Four Winds Hospital
- Northern Rivers – Crisis Services

Additionally, the Compliance Group received 237 survey responses (Appendix F) and 11 written submissions (Appendix G) from the public.

Executive Order 203 Discussion Topics

A significant portion of the feedback received by the Compliance Group were comments and constructive criticism related to how the Compliance Group was conducting its task of seeking input. The group was consistently encouraged to solicit more input and “double-down” on efforts to publicize meetings to encourage more participation.

The Compliance Group received feedback on a variety of topics, areas of concern, along with many comments of praise. The following is a brief overview and summary of the topics discussed. Of important notation is that not every topic or concern submitted is discussed herein and this is intended to be an overview.

- Feedback regarding an ongoing need to review policies and procedures in conjunction with community input and feedback;
- Comments and discussion both in support and against the School Resource Officer program;
- Extensive feedback was provided related to the deployment of specific “militarized” equipment and personnel in the instance of organized protests and gatherings;
- Feedback and concerns were provided related to an incident occurring on July 30, 2020 in Saratoga Springs, NY related to multiple organized protests/rallies where law enforcement intervened and deployed crowd-dispersing measures;

- Discussion and comments regarding communication of current Sheriff's Office policies and procedures being available to the public;
- Feedback requesting that the Sheriff's Office increase the collection of statistical demographic data related to arrests and interactions with the public, and making such data available to the public;
- Discussions and comments regarding appropriateness of deployment of law enforcement personnel to respond to instances of non-criminal reports; i.e., mental health crises; homelessness, etc.
- Discussions and comments regarding the importance of perception of law enforcement by community members;
- Discussions and comments about the need for increased mental health services statewide;
- Discussion and comments related to the importance of communication – making the public aware of what programs and resources are available that may be able to assist the community in lieu of a law enforcement response being required;
- Discussions and comments regarding the need for bias related training and implicit bias training for law enforcement personnel, including discussions related to the efficacy and benefit of particular trainings related to bias reduction;
- Discussions and comments related to officer worn body-cameras, including the potential benefit of using body-cameras as well as acknowledgement of the associated costs and the need for appropriate policies/procedures necessary to both implement the equipment and appropriately manage the information and data obtained by body-cameras;
- Discussions regarding communicating and publicizing programs implemented by the Sheriff's Office to increase community awareness of those programs.
- Discussion regarding the importance of maintaining accreditation standards; and discussions regarding current accreditation standards through NYSLEAP relative to the concerns and comments voiced by the community to the Compliance Group.
- Discussion regarding collection of demographic data in policing activities, including benefits of statistical analysis and potential downside of selective interpretation or mis-interpretation of data.

Summary of Stakeholder Input

While the Compliance Group considered all evidence pertaining to maintaining trust and confidence in police departments generally, it was particularly interested in hearing stakeholders' input regarding specific interactions with or observations of the Saratoga County Sheriff's Department. The goal is to identify any potential shortcomings in policies or practices, and to suggest methods of assuring even-handed policing in the future.

The group sought and received information from the Sheriff's Department as to uses of force and any personnel complaints for the past several years, whether founded or unfounded, pertaining to allegations of bias on the part of any Department employee. Many thousands of calls for police service are made each year, and result in approximately 1,500 arrests annually. From 2016 through 2019, there were between 11 and 22 use of force reports per year. None involved the discharge of a firearm.

Over the four-year period, 25 civilian complaints were received, and eleven of them were sustained. One complaint alleged excessive force, and one complaint alleged bias. Neither allegation was sustained.

Several participants in the public meetings commented on an event that occurred in the City of Saratoga Springs on July 30, 2020. The event involved a planned "Back the Blue" rally and a counter-protest by the groups "BLM" and "All of Us." An organizer of the group "All of Us," alleged that police had made unlawful arrests, used weapons with plastic bullets and had inappropriately used a military-type anti-terrorist vehicle. Other people offered criticism of the police response to the incident, including the use of pepper spray, the reliance on military tactics, absence of de-escalation techniques, and in general behavior described by one participant as fascist.

The Saratoga Springs Police Department issued an account of the July 30, 2020 event on August 4, 2020. In brief, the Department noted that "Back the Blue" organizers notified the City of a planned event sometime before July 30th. In addition to its normal staffing, the Department assigned seven additional officers, in accordance with normal procedure. However, it learned of social media posts indicating the presence of the counter-protest, and therefore sought the assistance of the Sheriff. According to the Saratoga Springs PD account, members of the "BLM" and "All of Us" group staged a road blockage on Broadway.

The Sheriff's MRAP vehicle (one that is mine resistant and ambush protected) was used during the ordeal. This equipment has been present in the City for large protests and events, such as emergency management details at the racetrack. The Chief of Police in the City authorized the use of pepper projectiles once the event intensified. Reportedly, there were no injuries and three arrests. Videos of the incident have been reviewed. While the Compliance Group conducted no structured fact-finding hearing regarding the July 30th event, it did not identify any specific instance of misconduct on the part of any Sheriff's Department employee. Nevertheless, many comments were made concerning the use of the MRAP and the "militarization" of police departments in general. Accordingly, the Compliance Group believes that the Sheriff should examine whether methods exist to use equipment with military appearances where necessary to control public disruption and protect lives, but in a manner that reduces the possibility of instilling fear or apprehension on the part of citizens engaging in legitimate public assembly and speech.

Aside from its review of past personnel complaints, and its collection of information and comments about the July 30th incident, the Compliance Group did not receive substantial evidence of specific misconduct on the part of sworn members of the Sheriff's Department. However, the absence of such particular input does not end the inquiry. Perceptions of the citizens regarding police operations impact one's behavior and can chill the exercise of critical constitutional rights. Therefore, the Compliance Group sought information and opinions of stakeholders whether or not their comments were based on knowledge or observations of Sheriff's Department personnel.

Stakeholders' input is referenced in appendices to this report. What follows is a brief summary of some of the points made by the participants in the Compliance Group's meetings.

One important topic addressed by the participants concerned the use of cameras so that a good factual record of police-citizen encounters is available for review. The benefit of a video and audio recording of police-involved incidents is readily apparent. Nevertheless, the product must be viewed in context. For instance, a video might capture not events preceding the recording or images not observed by a police officer intently focused on an actual threat. Conversely, a recording might not reflect threats that a police officer, trained in situational awareness, may perceive.

Resources devoted to the purchase of camera systems must necessarily be diverted from other public uses. Furthermore, body or patrol car cameras will not completely solve the problems we face in preserving trust and confidence in the police. But video and audio recordings can form an important part of the solution. Therefore, the Compliance Group suggests that the Board of Supervisors consider the establishment of a video program for the Sheriff's Department.

The School Superintendents provided the Compliance Group with critical information and ideas about maintaining trust and confidence in the police as the percentage of non-white populations in Saratoga County increases. The pros and cons of the School Resource Officer program were discussed. The Superintendents recognized the importance of focused training for SRO officers and using the program in a student-friendly manner, and the students' responses to the high school survey echoed this sentiment.

The Superintendents also emphasized the importance of preventing bias from impacting police practices through training and workshops geared toward officers engaging in self-critical analyses of their own perceptions and approaches to events involving persons of varying backgrounds.

The Compliance Group received useful input from mental health services organizations mentioned above, with several comments highlighting the positive experiences when Sheriff Deputies interact with citizens in some form of mental distress. In one instance where actions by a Deputy were questionable, the problem was promptly addressed by the Department. Participants discussed methods of decreasing the demands on the 911 system, and using mental health professionals as the primary response to calls where the potential danger to the responder is minimal.

Faith-based community leaders are an important source for maintaining good police-citizen relationships. Several appeared to help the Compliance Group fulfill its mission. In general, the group recognized the importance of the leaders communicating with the Sheriff if they come across evidence of unfair or biased policing in the county. One minister expressed gratitude at the hospitable atmosphere in Saratoga Springs, but described an exception where tempers flared at a school board meeting regarding armed police in the schools, and where there was some fear for a black resident in the midst of many white residents gathered in a contentious meeting. The minister also commented on a perception that police may treat white people in a

more forgiving fashion on matters as simple as a fender-bender. Concluding on a positive note, the minister complemented two members of the Sheriff's Department who responded to a call about a woman in emotional distress and spent over an hour in a successful effort to have meaningful communication with her.

Other community groups (identified above) also provided key insights as to the reaction of minority populations to government practices. For instance, criticisms were leveled at: alleged bias stemming from the cooperation of local police with federal immigration officials; difficulty in police communicating with persons not fluent in English; political bias among some government agents; the use of the qualified immunity defense in civil rights litigation against police (protecting police officers from individual liability for damages unless they violated clearly established law); some harmful police policies based on gender norms; the absence of data regarding the demographics of arrested persons; and the absence of civilian oversight. The Compliance Group conducted two evening sessions to bring in comments and concerns from the public in general. Many county residents accepted the invitation and voiced their concerns and experiences. Some of the information raised the same points expressed by group representatives in sessions described above.

- A rabbi reflected on the divine soul of every person and the need for police to focus on understanding the struggles and challenges of those they contact.
- Much comment was made concerning the need for outreach efforts to maintain communication between the police and community groups. A rape survivor emphasized this need.
- Participants commented on the July 30th incident involving the Sheriff's Department vehicle, described by one speaker as a "tank," in response to a counterdemonstration allegedly not favored by the Department.
- Residents expressed a belief that local police involvement with federal immigration officials supports racial and ethnic bias.
- One resident believed that funding for police should be cut substantially and the money redirected to mental health interventions. Others supported the idea of increased funding to mental health treatment measures.
- A resident pointed to indications that some bias training does not work well, particularly if it is based on an initial mindset that police are inherently biased in some form.

Discussion narrowed to the need to employ bias training that makes no value judgments on police taking the course, but rather directs attention to the importance of understanding various backgrounds and the need to prevent bias from creeping into policing.

Over 200 students from county high schools took time to respond to the Compliance Group's survey. Roughly eighteen percent of the respondents believed that the Sheriff's Department members treat whites better than non-whites. Some recommendations highlighted ideas expressed by other residents (for example greater use of mental health workers, affording all equal respect and freedom, excessive weapon possession by officers in schools). While a great percentage of students did not have a basis on which to form an opinion as to bias in the Sheriff's Department, many (about 32 percent) saw no differing treatment of whites and non-whites by Sheriff Deputies. Students expressed satisfaction with the School Resource Officer program by a margin of two to one of the students answering affirmatively or negatively. Several responses complimented school resource officers by name.

The Compliance Group also received many comments from the public at large through two electronic surveys. While the number of respondents may not have been adequate for definitive conclusions, they nonetheless provided the group with valuable information about the perception of policing in Saratoga County. Several residents expressed appreciation for the professionalism of the Sheriff's Department. Others commented, for instance, about the need for training in de-escalation techniques and bias awareness, the alleged militarization of the police, the response at the July 30th incident, the need for body cameras, the need for mental health professionals responding to calls for service where appropriate, as well as other subjects. Asked specifically whether Saratoga County should invest in body cameras: 15 replied "maybe"; 29 replied "no"; and 73 replied "yes."

The Compliance Group recognizes that completing the detailed survey was difficult, and therefore appreciates the respondents who took the time to offer opinions and recommendations concerning deployment policies, policing strategies, staffing adequacy, use of force policies, diversion programs, community outreach, and others. The feedback greatly assisted the group in framing recommendations to the Board of Supervisors.

In an attempt to maximize the vehicles through which citizens could participate in this review, the Compliance Group also encouraged the submission of letters or emails expressing views on policing in an unstructured format. These submissions in large measure made points similar to those already described and were carefully considered by the group. For example, the advantages of body cameras as a policy matter were recognized even if evidence of existing racial bias on the part of police in the county is not apparent, and even if available funding allowed only for a gradual implementation of the initiative.

A commentator pointed to a study conducted in a different area municipality indicating that people of color were stopped in their vehicles more often than white people. The Compliance Group recognizes the importance of this issue. Supervisory police personnel should keep alert to the demographics of those arrested, but it may be more difficult to keep track of those people stopped but not arrested or issued a traffic ticket. Yet this latter data is important, because it may suggest that a police officer, even unwittingly, might focus attention on one demographic group for potential traffic violations.

For a complete record of stakeholder input, reference can be made to the appendices to this report.

Outline for Community Discussions

Executive Order 203 provides that the following topics be reviewed: deployment; use of force policies; procedural justice; any studies addressing systemic racial bias or racial injustice 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 intervention; 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.

Deployment:

The Sheriff's Office patrol area is divided into three sectors with eleven zones. Each zone covers one or two towns. Each town is its own post within the zone. Deputy Sheriffs are deployed each shift to cover a single post, multiple posts or multiple zones depending on the time of day, time of year, weather, and other relevant information. Post coverage is a fluid process that is determined on a shift-by-shift basis and frequently modified during a given shift as situation arise that require changes. There is a minimum of two supervisors (Sergeant or Captain) working per shift who provides direct supervision to Deputy Sheriffs in the field as well as monitor call volume and changing conditions to adjust deployment. The Sheriff's Office has 139 staff sworn law enforcement officers of which, 78 are Deputy Sheriffs assigned to patrol duties, 25 are supervisory and management staff, and 11 are criminal investigators. The remaining staff is assigned to administrative functions including evidence, training, school resource officers, community outreach, sex offender management, narcotics, administrative functions, etc. The Deputy Sheriffs and Sergeants are divided among three 8-hour shifts, (day, evening and overnight) and five stations (Corinth, Wilton, Milton, Clifton Park and Halfmoon). This results in patrol coverage ranging from single digit patrol coverage on some overnight shifts to as many as twenty-plus on days and evenings depending on multiple variables such as special details, traffic unit assignments, etc. The Sheriff's Office patrol zone map is attached as Appendix H.

Policing Strategy:

The Sheriff's deployment of resources is primarily based on call volume and anticipated response times with consideration to the number of resources available during the given patrol shift. The Sheriff's Office does take proactive steps to deter and stop crime including programs outlined below; however, given the size of Saratoga County and the size of the Sheriff's Office patrol division, they remain primarily a reactionary force in many parts of the County.

According to the FBI 2019 Crime in the United States report, of 3,000 county police agencies reporting data, the average number of full-time, sworn law enforcement officers was 2.8 per 1000, 4.7 per thousand both sworn and non-sworn staff. For suburban areas the numbers were slightly less at 2.5 and 3.8 respectively⁸. The 2019 Saratoga County population estimate by the US Census Bureau was 229,863. Utilizing these statistics, Saratoga County would need to have between 574 and 643 sworn law enforcement officers to match the average for suburban and county averages nationwide. Saratoga County currently has approximately 375 full-time sworn law enforcement officers including all police agencies in Saratoga County.

Use of Force Policy:

The Saratoga County Sheriff's Office *proposed* "Use of Force" policy is:

Members shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the member at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable member on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that members are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation a member might encounter, members are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

⁸ <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/police-employee-data>

It is also recognized that circumstances may arise in which members reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this Office. Members may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.

The proposed Use of Force Policy includes provisions related to alternative tactics - de-escalation; factors to determine reasonableness of use of force; control holds; prohibitions against application of force that hinders breathing or reduces intake of air; and deadly force applications. The proposed Use of Force Policy also includes provisions regarding regular training in use of force; reporting use of force and supervisory review of use of force. This policy has been sent to Sheriff's Office members for review and comment prior to finalization.

Procedural Justice & Bias:

The policies of the Sheriff's Office that promote procedural justice include the Mission Statement, Code of Ethics, Hate Crimes policy, Biased-Based Policing policy, Immigration Violations policy and Standards of Conduct. The Sheriff's Office has an internal affairs program for receiving and investigating complaints against agency members. The Sheriff's Office also has a rich history of community engagement with civic and community groups and organizations. Deputy Sheriffs are routinely present at community events to engage with the public in support of an open dialog. The Sheriff's Office regularly provides accurate, up-to-date information to the press and public regarding the actions of the Office. As of this time, the Sheriff's Office has not conducted implicit bias training for all members. The Sheriff's Office currently does not have in-car or body-worn camera video of any interactions with the public. The Sheriff's Office has not conducted regular training on such topics as diversity, de-escalation, cultural education, and elimination of bias. The recommendations are to study and implement

training and programs related to topics such as: diversity and cultural education, elimination of bias and de-escalation.

De-Escalation:

The Sheriff's Office policy specifically states that members should use de-escalation tactics in lieu of use of force in situations where it is reasonably permissible (*See Use of Force* policy 300.3.1). In an effort to support de-escalation techniques, the Sheriff's Office uses a computerized use of force training simulator which mimics actual police encounters. During each scenario, Deputies have access to all of their lethal and less-than-lethal weapons. The scenarios are proctored and can evolve or devolve based on the interaction of the Deputy with the scenario. Through this training program, Deputies can practice de-escalation techniques and if used correctly can resolve the conflict.

Law Enforcement Assisted Diversion Programs & Restorative Justice:

The Sheriff's Office does utilize many assistance programs for individuals who have not committed a crime and those who have been arrested for a crime. The Sheriff's Office does not participate in diversion programs in lieu of arrests in criminal cases. However, the School Resource Officer Program routinely utilizes the school discipline system in lieu of referrals to Family Court where appropriate. While the Sheriff's Office does not have an official "Restorative Justice" program, some of the concepts and principles are used by the Office when encountering potential offenders, such as counseling or bringing the parties together to discuss the matter. Additionally, the Sheriff's Office actively participates in restorative justice-based programs such as the DWI Victim Impact Panel, the Clifton Park Youth Court, community Narcan training and follow-up contact to offer information and referrals regarding treatment and other supportive resources.

Community Based-Outreach and Conflict Resolution:

The Saratoga County Sheriff staffing patterns foster community-based outreach and non-arrest conflict resolution by employing regional sub-stations in an effort to have the same Deputies regularly patrolling neighborhoods so that they can establish relationships with those that work and reside in the various communities in their patrol areas. Sheriff's Office members

are encouraged to visit schools and businesses during their patrols and are often assigned to community events, neighborhood watch meetings, talks at civic organizations, etc. This staffing pattern allows deputies and residents to develop relationships that are valuable for the welfare and safety of the community.

Problem Oriented Policing and Hot-Spot Policing:

Problem oriented policing and hot spot policing are similar concepts, involving identifying and analyzing specific crime problems and locations and targeting resources toward solving those problems. The Sheriff's Office employs those concepts, in coordination with other law enforcement agencies in Saratoga County, by identifying trends that require targeted enforcement such as a string of neighborhood burglaries or larcenies, speeding and reckless driving complaints, frequent loud or unruly parties. The Sheriff's Office also has members assigned to state and federal task forces that monitor and identify trends and patterns that indicate a need for targeted enforcement. The Sheriff's Office also works closely with the Capital Region Crime Analysis Center to monitor and assemble data and use such information to identify and act regarding trends and patterns.

NYS Law Enforcement Accreditation Program (NYSLEAP) Standards:

Law enforcement accreditation is not mandatory for police agencies in New York State, and not every agency is able to attain accreditation from the Council. To achieve accreditation, the Law Enforcement Agency Accreditation Council has established a set of standards which must be met by a law enforcement agency seeking accreditation must comply with. The Saratoga County Sheriff's Office continually meets all accreditation standards of NYSLEAP and has been an accredited police agency continually since 1992. The Sheriff's Office also holds accreditations for its Correctional Facility and 911 Center.

According to the New York State Division of Criminal Justice Services, the NYS Law Enforcement Accreditation Program provides formal recognition that an agency meets or exceeds general expectations of quality in the field. The program has four principal goals: (1) to increase the effectiveness and efficiency of law enforcement agencies utilizing existing personnel, equipment and facilities to the extent possible; (2) to promote increased cooperation and coordination among law enforcement agencies and other agencies of the criminal justice

system; (3) to ensure the appropriate training of law enforcement personnel; and (4) to promote public confidence in law enforcement.

The cornerstone of the Accreditation Program lies in established standards that contain a clear statement of professional requirements. Agencies voluntarily participate in the program and conduct a thorough analysis of their organization to determine how existing operations can be adapted to meet established standards. When an agency adopts policies and procedures that meet the standards, a team of independent professionals conducts an on-site assessment to verify that all applicable standards have been successfully implemented. This process culminates with a decision by the NYS Law Enforcement Accreditation Council that the agency is worthy of accreditation.

Saratoga County Sheriff's Office Overview

The Saratoga County Sheriff is a law enforcement agency of the political subdivision of Saratoga County. The Saratoga County Sheriff has jurisdiction over the entire approximately 844 square miles of Saratoga County which has a population of approximately 230,000. Other Law Enforcement agencies within Saratoga County are the New York State Police; New York State Park Police; Saratoga Springs Police Department; Ballston Spa Police Department Mechanicville Police Department; South Glens Falls Police; Stillwater Police Department; and the Waterford Police Department.

Hon. Michael Zurlo is the duly-elected Sheriff. The Saratoga County Sheriff's Office is comprised of 294 total employees and staff across seven divisions (Civil Division; Communications Division; Corrections Division; Pistol Permits; Records; Patrol Division and Administrative Support). The Sheriff's Office has approximately 139 sworn law enforcement officers, consisting of 78 deputies assigned to patrol duties; 25 supervisory and management staff and 11 criminal investigators. The Saratoga County Sheriff's Office is accredited by the New York State Law Enforcement Accreditation Program. A summary of accreditation requirements from the NYSLEAP is attached as Appendix I.

Saratoga County Sheriff's Office Mission Statement:

The Saratoga County Sheriff's Office will be recognized as one of the finest law enforcement agencies in the State of New York. Our members will be renowned for their professionalism, dedication to excellence, teamwork, community partnerships, and commitment to making Saratoga County a safe place to live, work and raise a family. We will accomplish this through strict adherence to our core values of Service, Integrity, Respect, Trust, Courage, and Duty.

The Saratoga County Sheriff's Office will be guided by the following core values:

Service: We recognize that customer service is our highest priority. We are committed to providing caring, competent, and professional police service.

Integrity: We believe integrity is character in action. We are morally and ethically aware, resolute and above reproach at all times regardless of our duty status.

Respect: We must respect ourselves, our peers, those we serve, and the sanctity of the law and the institution that is the Saratoga County Sheriff's Office.

Trust: We must solemnly value the trust that has been placed in us by those we are sworn to serve, and we are committed to holding ourselves to a higher standard of accountability to continually earn their respect each and every day.

Courage: We recognize that "courage is not the absence of fear, but the mastery of it." We stand firm in the face of danger and will confront all threats to the safety and security of our communities with intelligence and vigor.

Duty: We do not swerve from the path of our obligations, nor do we depart from standards of professional conduct. We obey the law and enforce it without consideration of class, color, creed or condition.

Standards of Conduct:

The following summary was provided by the Saratoga County Sheriff's Office regarding current policies and procedures: "The Saratoga County Sheriff's Office serves the law enforcement needs of all the citizens of the County and strives to do so in a professional manner, respecting the rights of all our citizens without regard to race, color, nationality, creed, gender or sexual orientation. Our policies and procedures are developed and carried out with that goal in mind and our 125 Deputy Sheriffs are selected, trained and supervised with that goal in mind.

We use our knowledge, experience and professional judgment, combined with available information, data, analysis and research to develop our Saratoga County Sheriff's Office policing strategies, policies and procedures. Members of the Sheriff's Office have spent the last four years reviewing, researching and drafting updated policies which have resulted in nearly every policy in the Sheriff's Office Law Enforcement Division being updated for compliance with model policies, state and federal statutes and recognized best practices in law enforcement."

Recommendation Discussion

In accordance with Executive Order 203, the Compliance Group makes the following recommendations to the Saratoga County Board of Supervisors:

- 1. Facilitate and establish an advisory committee to continue to seek public input and community involvement in reviewing policies and procedures utilized by the Sheriff's Office beyond April 1, 2021.**

The Compliance Group heard feedback and inquiries as to the timeline of the review and requests to hold additional meetings. Input was submitted regarding the methods of publication, outreach and scheduling additional discussion sessions. The schedule and deadlines imposed by the Executive Order require that the Compliance Group submit a report in a time frame that will allow for the Board of Supervisors to act by April 1, 2021. However, the Compliance Group would recommend that the Board of Supervisors establish an advisory committee to continue to seek public input and “continue the conversation” beyond April 1, 2021.

- 2. Encourage the Saratoga County Sheriff to take any steps necessary to maintain compliance with the New York State Law Enforcement Accreditation Program (NYSLEAP).**

The Compliance Group reviewed and considered the accreditation programs already obtained by the Saratoga County Sheriff. The maintenance of accreditation through NYSLEAP is significant as the accreditation standards already require policies and procedures that accomplish many of the requests that the Compliance Group heard from the community input (e.g., use of force policies, standards of conduct, etc.). The Sheriff's Office has been continually accredited by the NYSLEAP since 1992. Participating in the accreditation program it allows for a thorough analysis of the organization to determine how existing operations can be adapted to meet established standards in addition to allowing independent professionals to conduct assessments to verify all applicable standards have been successfully implemented.

3. Encourage the Saratoga County Sheriff to maintain policies consistent with the model policies as provided by the New York State Municipal Police Training Council.

The Compliance Group received input from the community requesting consistency and clarity in the development and communication of policies. The current policies of the Sheriff's Office appear to be consistent with the models as provided by the New York State Municipal Police Training Council. The Compliance Group would recommend that the consistency in policy development continue and would encourage the Saratoga County Sheriff to maintain policies consistent with the model policies as provided by the New York State Municipal Police Training Council.

4. Encourage the Saratoga County Sheriff to study and implement training and programs related to topics such as: diversity and cultural education, elimination of bias, and de-escalation.

The Compliance Group received input from the community that local law enforcement should be provided with appropriate training and programs aimed at the issues such as bias, diversity and cultural education. Additionally, comments were provided both independently and in-conjunction with accounts an incident that occurred in Saratoga Springs on July 30, 2020 regarding a need for law enforcement to be provided with de-escalation training. The Compliance Group discussed and would recommend that the specific types and modalities of training be studied by the Sheriff's Office to provide the most effective trainings in accomplishing the goals of increasing the use of de-escalation tactics, promoting diversity and cultural education, and the elimination of bias.

5. Recommend that the Saratoga County Sheriff explore the development a body camera and in-car video program for agency. A draft policy should be submitted to the Public Safety Committee for review and recommendations. Recommend that the Board of Supervisors consider funding the establishment of the Sheriff's body camera and in-car video program to include equipment, storage, and requisite staff for the review and management of video records.

The Compliance Group received feedback and comments and engaged in significant discussion related to officer worn cameras. The discussions included acknowledgement of the

transparency provided by body-cameras and dashboard cameras. Additionally, the need for development of appropriate policies for deployment, storage and maintenance of data and considerations related to privacy and security. The Compliance Group acknowledges that any development and implementation of a body-camera program is entirely within the purview of the Board of Supervisors and may involve considerations outside of the scope of the charge provided to the Compliance Group. As a result, the Compliance Group would encourage the Sheriff and Board of Supervisors to consult with appropriate stakeholders as part to the review of any plan to develop a body camera and in-car video program. The development of such a program should include consideration of transparency benefits, privacy concerns, costs, need for additional staffing and overall impact on the Sheriff's Office as well as other County Department (District Attorney's Office; Public Defender's Office; Public Access Officer; Information Technology).

6. Encourage the Sheriff consult with the Board of Supervisors and its Public Safety Committee in exploring the feasibility of creation of a Professional Standards position or group within the Sheriff's Office to collect and investigating complaints, review and update policy and audit agency performance.

Currently, complaints submitted by the public to the Sheriff's Office alleging misconduct are collected and responded to on an "ad-hoc" basis which is dependent, amongst other things, on the substance of the allegation of misconduct. The Compliance Group received input from the community calling for the consistent and independent review of allegations. The Compliance Group determined that it would be appropriate for the Sheriff to explore the feasibility of creating a separate position or group within the Sheriff's Office that would be given responsibility and autonomy to investigate complaints, review policies and audit agency performance.

7. Encourage the Sheriff to amend policies and procedures as needed to facilitate collection of additional demographic data on law enforcement contacts to include data related to race and ethnicity.

Throughout the public meetings held by the Compliance Group a theme of comments were related to collection of statistical data by the Sheriff's Office regarding race and ethnicity. Currently, the Sheriff's Office collects race and ethnicity data for arrests only. The community

feedback was consistent in calling for race and ethnicity data to be collected to facilitate an inquiry into any statistically significant information as it relates to the policies, procedures and conduct of the Sheriff's Office personnel.

8. Facilitate the establishment of a County created and maintained list of resources for the public and county employees to reference in lieu of contacting or deploying law enforcement personnel for certain non-law enforcement incidents.

The Compliance Group conducted nine public meetings and throughout those meetings and discussions a theme was present wherein services and programs available to the citizens of the county were brought to the attention of the group members. It became abundantly clear that Saratoga County is greatly benefited by these agencies dedicated to assisting in a variety of areas, including mental health services, substance abuse and domestic violence. These programs and agencies consisted of a variety of non-profits, faith-based services, government assistance programs, and others. The Compliance Group discussed the need for the development of a single point resource that would enable law enforcement and others to identify, refer and contact outside programs and agencies in appropriate circumstances.

9. Encourage and Recommend the Sheriff continue to engage and support the inclusion of mental health resources in the daily functions of the Sheriff's Office to the benefit of both the community and members of law enforcement.

The Compliance Group received feedback from the community and stakeholders that called for increased availability, funding and accessibility of mental health resources. Comments were received indicating that inclusion of mental health resources in the daily functions of the Sheriff's Office would benefit the community in reducing the volume of responses by the Sheriff's Office to non-law enforcement situations that can be safely and appropriately responded to by a mental health resource. Likewise, law enforcement members may benefit from increased availability and inclusion of mental health resources for themselves.

10. Recommend to the Sheriff to examine whether methods exist to use equipment with military appearances where necessary to control public disruption and protect lives, but in a manner that reduces the possibility of instilling fear or apprehension on the part of citizens engaging in legitimate public assembly and speech.

The Compliance Group recognizes and acknowledges the concerns and apprehension that was expressed regarding the Sheriff's Office use of equipment that has a military appearance. Of specific note was the deployment of the Sheriff's MRAP armored vehicle during the events of July 30, 2020 in Saratoga Springs. The Compliance Group recognizes that the purpose of such equipment is to protect first responders and the public. The Compliance Group also recognizes that there may be misconceptions in the community about the capability and intended use of the Sheriff's MRAP vehicle⁹. As a result, the Compliance Group has recommended that the Sheriff determine whether methods exist when using such equipment to reduce the potential for instilling fear or apprehension on part of citizens engaging in legitimate public assembly and speech.

⁹ The Sheriff's MRAP Vehicle is an armored vehicle that does not have any weaponry or outward armament. The Sheriff's MRAP Vehicle is also not classified as "tank" as some individuals may have perceived or reported.

Recommendations Summary

1. Facilitate and establish an advisory committee to continue to seek public input and community involvement in reviewing policies and procedures utilized by the Sheriff's Office beyond April 1, 2021.
2. Encourage the Saratoga County Sheriff to take steps necessary to maintain compliance with the New York State Law Enforcement Accreditation Program.
3. Encourage the Saratoga County Sheriff to maintain policies consistent with the model policies as provided by the New York State Municipal Police Training Council.
4. Encourage the Saratoga County Sheriff to study and implement training and programs related to topics such as: diversity and cultural education, and elimination of bias.
5. Recommend that the Saratoga County Sheriff explore the development a body camera and in-car video program for agency. A draft policy should be submitted to the Public Safety Committee for review and recommendations. Recommend that the Board of Supervisors consider funding the establishment of the Sheriff's body camera and in-car video program to include equipment, storage, and requisite staff for the review and management of video records.
6. Encourage the Sheriff consult with the Board of Supervisors and its Public Safety Committee in exploring the feasibility of creation of a Professional Standards position or group within the Sheriff's Office in lieu of the current ad-hoc method of collecting and investigating complaints, reviewing and updating policy and auditing agency performance.
7. Encourage the Sheriff to amend policies and procedures as needed to facilitate collection of additional demographic data on law enforcement contacts to include data related to race and ethnicity.
8. Facilitate the establishment of a County created and maintained list of resources for the public and county employees to reference in lieu of contacting or deploying law enforcement personnel for certain non-law enforcement incidents.
9. Encourage and Recommend the Sheriff continue to engage and support the inclusion of mental health resources in the daily functions of the Sheriff's Office to the benefit of both the community and members of law enforcement.
10. Recommend to the Sheriff to examine whether methods exist to use equipment with military appearances where necessary to control public disruption and protect lives, but in a manner that reduces the possibility of instilling fear or apprehension on the part of citizens engaging in legitimate public assembly and speech.