

February 3, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager **202002155**

Subject: Motion to Implement Cincinnati Black United Front and Ohio Justice and Policy Center Recommendations

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**REFERENCE DOCUMENT # 202000774**

On June 8, 2020, the Law and Public Safety Committee referred the following for a report:

MOTION, submitted by Councilmember Landsman, WE MOVE that the Administration, working with City partners, especially the Cincinnati Black United Front and the Ohio Justice and Policy Center who have put these reforms forward, take up the following recommendations: (Balance of motion on file).

**REPORT**

The following report summarizes the status of the reforms recommended by the Cincinnati Black United Front and the Ohio Justice and Policy Center. All recommendations have been completed, are in development, or are the subject of ongoing discussions.

**(1) Apply laws and policies fairly, and eliminate disparities in the criminal-legal system.**

**A. Review and release data, particularly in regard to arrests.**

The Cincinnati Police Department reviews and releases data in an array of formats and venues. In addition to the over 92,000 documents CPD releases to the public through records requests annually, CPD proactively publishes summary crime information (STARS Report), weekly, to the official CPD website. The STARS report summarizes Part One reported crimes and provides comparative analysis across a variety of time periods. STARS reports are available citywide, and for each police district. CPD also publishes crime reports for each neighborhood, weekly, on its website. CPD routinely shares this information at neighborhood meetings, and actively publishes information important to the public through various social media platforms.

CPD collaborates with the City's Office of Performance and Data Analytics (OPDA) to ensure that CPD data is routinely (often daily) published to the City's Open Data Portal and to Cincy Insights, an interactive dashboard portal designed to make open data more friendly. The City's Open Data Portal currently hosts 35 public safety data sets, including crime incidents, police calls for service, traffic crash reports, police use of force, assaults on officers, traffic and pedestrian stops, and others. Through Cincy Insights, these data sets can be filtered and mapped so that the public is not only provided raw data that might be downloaded and

analyzed in any manner they see fit, but also that citizens might be able to conduct basic analysis and visualization of data in near-real time.

Each quarter the City publishes a Collaborative Agreement Performance Deck online which includes standard reporting across a range of police performance indicators, including traffic stop outcomes, arrests, and officer involved shootings. A number of metrics are tracked along race and geographic dimensions.

CPD has instituted a process improvement team that is actively working to fully implement electronic arrest reporting for every arrest.

## **B. Adopt new policies and protocols to eliminate disparities.**

CPD is committed to bias-free policing. In 2019, CPD expanded upon existing policies and procedures intended to affirm this commitment by adding a new CPD procedure (PM 15.100), titled *Bias Free Policing*. The policy statement of this new procedure reads: “The Cincinnati Police Department will provide service and enforcement fairly and without discrimination toward any individual or group of people. Bias based profiling **shall not be used** as the basis for providing law enforcement services or the enforcement of laws. All members have the responsibility for achieving the Department’s goal of bias free policing.” This new procedure is integrated into CPD’s Manual of Rules and Regulations and Disciplinary Process and other existing policies and procedures.

CPD is also committed to developing new protocols intended to eliminate disparities, when evidence suggests they hold promise. One recent example is a collaborative effort between the City and County, called Law Enforcement Assisted Diversion (LEAD). LEAD is a community-based diversion approach with the goals of improving public safety and public order and reducing unnecessary justice system involvement of people who participate in the program. CPD is an active partner in this program. One core principle is: undo racial disparities at the front end of the criminal justice system. This program is currently piloted in District One and the Central Business District.

## **(2) Offer warnings first and problem solve for constructive, creative solutions while policing and review use-of-force policies.**

### **A. Pursue new investments in problem-solving using strategies beyond charges.**

CPD has defined problem solving as the Department’s principal strategy for addressing recurring crime and disorder problems. CPD’s Problem Solving Guide states: “Initially, any and all possible responses to a problem should be considered so as not to cut short potentially effective responses. Suggested responses should follow from what is learned during the investigation. They should not be limited to, nor rule out, the use of arrest.” **It is this commitment to problem solving that has resulted in a reduction in arrests of more than 50%, comparing 2000 to 2019 (from 47,188 to 21,487).**

In 2016, the City of Cincinnati launched the PIVOT initiative. PIVOT (Place-Based Investigations of Violent Offender Territories), is a strategy intended to problem solve violent criminal activity. Rather than relying solely on arrests, the PIVOT team also focuses very carefully on aspects of place, and on techniques beyond arrest that might alter criminal activity and violence. PIVOT projects are complex problem-solving projects, in collaboration with our community, stakeholders, and many City departments. Responses intended to

reduce violence have included situational crime preventive measures like installing fences and gates, modifying and improving lighting, reorganizing and regulating parking, and attending to blight that influences crime (i.e. tall grass where guns are hidden). Police have also focused on the potential benefits of proper place management, and worked with property owners to educate, convince, and in some cases compel action, through regulatory systems and courts, to regulate conduct in a way that prevents future criminal activity. PIVOT project areas have seen significant reductions in shootings and other violence, without relying on arrest as the only mechanism by which public safety might be improved.

In 2017, CPD won the international Herman Goldstein Award for Excellence in Problem-Oriented Policing, for the PIVOT strategy. In 2018, CPD was awarded a Community-Based Crime Reduction grant, through the Department of Justice, to implement PIVOT in the neighborhood of East Price Hill. This is just one example of new investments in problem solving strategies that extend beyond reliance on criminal charges. CPD's expansion of victim-liaison services, through VALU/CCROW, represents another such effort. These victim and witness services are aimed at strengthening victim and witness participation in the criminal justice system, and at improving access to restorative and protective resources for crime victims. It is hoped that greater engagement will not only result in a more effective criminal justice system, but that it will also disrupt dangerous cycles of retaliation in our community.

**B. Develop a juvenile problem-solving team to reduce arrest and use-of-force against youth.**

In October 2019, the Administration completed a juvenile problem solving project to improve youth-police relations in partnership with the Children's Law Center, the Urban League and Youth at the Center. The Cincinnati Black United Front was invited to participate in the effort in the fall of 2018 and spring of 2019. A presentation was made to members of Law and Public Safety by the project partners on June 10, 2019. Final recommendations were submitted to the City and are currently under review.

**C. Develop ordinances to reduce arrests and ensure citations/summons are issued wherever possible.**

Current CPD procedure governing arrests (PM 12.555) notes that all adults charged with misdemeanor offenses are eligible for release via a Notice to Appear (NTA), rather than physical arrest, excepting sex offenses, weapon offenses, 3<sup>rd</sup> offense OVIs, domestic violence, those charged living in a place where extradition would be necessary, or in instances where specific language or conditions in the arrest document require a physical arrest (i.e. probation warrant). Arresting officers may also cite individuals for traffic warrants.

As noted in a previous response, CPD is also engaged in a pilot pre-arrest diversion program called LEAD, which provides an additional avenue for the diversion of low-level criminal charges, in pursuit of addressing root causes of criminal activity.

For juvenile offenses (PM 12.900), a range of responses other than arrest are available to officers in many circumstances. An officer who perceives that an informal intervention by Hamilton County Juvenile Court is preferable for a first-time, non-violent misdemeanor offender may sign an unofficial complaint. Unofficial hearings provide an opportunity for juveniles and victims to arrive at a solution. In cases where an unofficial hearing is not the proper solution, officers may issue a "closed referral" for any non-violent misdemeanor offense other than drug or alcohol offenses, provided the juvenile has not previously been issued a

closed referral. A closed referral is written documentation of an offense, used in part to inform a responsible adult (i.e. parent) of the circumstances. Closed referrals are not processed as criminal complaints.

**D. Direct city prosecutors to take a position against monetary bail for all misdemeanor suspects in non-violent offenses.**

The City Solicitor's Office adopted the attached bail policy in early 2020, which instructs prosecutors to not oppose the pre-trial release of defendants on their own recognizance subject to exceptions for certain offenses where the community has a strong interest in pre-trial detention for public safety.

**E. Conduct internal and external reviews of current use-of-force protocols as well as trainings to identify changes with particular attention to de-escalation, domestic violence, encounters with the mentally ill, and cultural competency.**

CPD conducts internal and external reviews of use-of-force and actively seeks and administers training, with particular attention to de-escalation, domestic violence, and encounters with those affected by mental health. CPD prioritizes cultural competency. As a part of CPD's organizational structure, the Planning Section of CPD is charged by the Police Chief with conducting long-range planning, developing and maintaining policies, procedures and forms, and conducting legal research. Upon approval by the Chief to revise a procedure, the Planning Section opens a procedure revision project. Procedure revision projects include reviewing the policies and procedures of other agencies, model policies, best practice, and internal and external recommendations. CPD Planning Section often engages with Inspections Section, Internal Investigations Section, and Training Section to understand any perceived weaknesses or negative outcomes of past procedures, and to seek feedback on potential procedure revisions. The frequency with which CPD reviews and revises operating procedures may be misunderstood by some. In any given moment, multiple procedures are under review. In 2019, 41 of CPD's 188 procedures were reviewed, revised, and approved for Department use. CPD's Use of Force procedure is one of the most frequently reviewed and revised procedures. It has been revised 34 times since 2002; the most recent approved revision was implemented in June of 2019. CPD requests feedback from the Citizen's Complaint Authority (CCA) when considering revision to the Use of Force procedure.

De-Escalation

CPD emphasizes de-escalation. It is defined and discussed in CPD Use of Force procedure, as well as in procedures that outline response to those who are mentally ill and in procedure that governs the discharge of firearms by police personnel. It has also been a core training topic for more than a decade. It is embedded in many Department trainings. In March of 2020, CPD conducted *Force Science Fundamentals of Realistic De-Escalation*, which teaches officers necessary skills to accurately assess potentially violent confrontations and defuse them when possible, to avoid potential uses of force. Field training officers and new police supervisors are provided *Civil Liability and Use of Force* supplemental training to assist them in acting as leaders and department role models, reinforcing the prioritization of de-escalation and the use of only necessary force.

Domestic Violence

CPD recognizes the risks inherent in responding to domestic violence incidents when suspects are still present, and trains officers to respond in a way that is intended to generate a rapid protective response for victims, while working to minimize the need for force during

the arrest of an abuser. CPD's policy and practice makes it clear that domestic violence is highly prioritized and that it is clearly understood that victims of these crimes may benefit from services beyond traditional law enforcement and criminal prosecution. For this reason, CPD has a longstanding partnership with Women Helping Women. Most recently, CPD has actively engaged in the DVERT program. DVERT advocates aid department personnel by providing around-the-clock, on-site support, resources, and options to victims, allowing officers to focus on the law enforcement aspects of an incident. DVERT advocates from Women Helping Women are dispatched to the scene within the hour to focus on the needs of the survivor and dependents.

#### Mental Health Response

It is clear to CPD that implementing best practices when responding to persons experiencing a mental health crisis may help to minimize instances in which force is necessary. Since 2002, all CPD recruits receive 40 hours of Mental Health Response Team (MHRT) certification training. MHRT officers are dispatched on all runs involving individuals experiencing mental illness. If two MHRT officers are available, they will be dispatched as a team.

CPD officers routinely collaborate with the Mobile Crisis Team (MCT). MCT members are mobile clinical team participants, comprised of licensed master level social workers trained to respond to mental health emergencies throughout Hamilton County. Three MCT members are embedded in CPD districts, enhancing their ability to respond to support relevant calls for assistance that are received through the Emergency Communications Center, and to which CPD officers respond.

#### Cultural Competence

As part of continuing professional training in 2019, Officer Fred Gilmer taught *Empathy Through American History* to his fellow officers. The objectives of the course included the history of race relations in the United States and the immense impact of assisting people through empathy and applying this approach to develop stronger communities.

#### **F. Create publicly available report(s) explaining the development, implementation and results of use-of-force reviews, policies and trainings including the employee tracking system, records management system and electronic contact cards.**

Police use-of-force data is publicly published by the City of Cincinnati, through the Office of Performance and Data Analytics. It is available both on Cincinnati's Open Data Portal and on the Cincy Insights dashboard. CPD procedures, including those governing the process by which use of force is reported and investigated, is published publicly on CPD's official website. Procedures and Staff Notes that govern the manner in which CPD uses the Employee Tracking System (ETS), Records Management System (RMS), and contact cards, are also posted on CPD's website and available for public review.

An update was provided to the Manager's Advisory Group (MAG) at the December 2019 meeting on the status of the ETS, RMS, and electronic contact cards. CPD completed a presentation and hosted a question and answer session.

### **(3) Address the pandemic as an issue of public health, not of criminality.**

Since the beginning of the pandemic, the City's approach to the health crisis has been to emphasize compliance with regulations that have been implemented for the safety of the

entire community, rather than strict enforcement. For that reason, enforcement has been limited. Since April, when Council passed legislation that enabled Health Department sanitarians to take the lead on pandemic-related enforcement, CPD has not signed criminal charges for the enforcement of any Ohio Department of Health (ODH) orders. Prior to April, CPD focused on achieving compliance, rather than enforcement. Just 17 individuals were charged with only failing to comply with the various ODH orders. An additional 16 persons were charged with violating the ODH orders in addition to other criminal offenses.

The City Solicitor's Office has treated the prosecution of these individuals as one of education, rather than punishment. Defendants have been addressed on a case-by-case basis by prosecutors to ensure that defendants are not being prosecuted for a lack of information or education about the issue, or lack of means to comply. As a result, over a third have been dismissed to date. Prosecutors continue to evaluate each case as it appears on the docket and recommend dismissal where circumstances dictate public health or safety would not be served by a conviction.

#### **(4) Revive the Citizen Complaint Authority (CCA).**

CCA has a long record of active and diligent service to Cincinnati. In September 2020, Gabe Davis was appointed CCA Director; continuing CCA's strong tradition of service to the community, he has accomplished a great deal in that short amount of time, as set forth below.

CCA recently hired three experienced and diverse investigators. The new investigators include a former NYPD detective fluent in Spanish, a former Cleveland prosecutor with criminal defense experience, and a counterintelligence investigator from the U.S. Intelligence Community. These new hires immediately brought CCA into compliance with staffing requirements under CCA's governing statute. They also strengthened CCA's ability to complete investigations of citizen complaints in a timely fashion, identify patterns, and meaningfully influence police accountability outcomes and decision-making.

Reduction of CCA's case backlog was a high priority. In order to address this issue and improve efficiency, the director implemented a plan that included the use of concrete internal targets for case completion, measurable benchmarks, strategic assignment of cases, and streamlined processes for report-writing designed to expedite the completion of less-complex cases.

CCA enhanced engagement with the community by creating opportunities for the public to virtually participate in CCA's Board Meetings. CCA staff worked with the Board to create more opportunities for the community to offer comments during Board Meetings and opportunities to become educated about issues related to the community's concerns through the use of guest speakers and relevant agenda topics. Further, the Director has engaged community stakeholders in one-on-one meetings designed to build relationships and improve the delivery of CCA's services to the public.

Finally, CCA has had multiple collaborative discussions with the City's leadership and other divisions and departments - including important collaborations with the Cincinnati Police Department, Office of Human Relations, Criminal Justice Initiatives, Office of Performance and Data Analytics, the Solicitor's Office, and others. These collaborations have addressed topics such as strengthening CCA's recommendations process, revisions to police policy, collaboration regarding monitoring of discrimination complaints, and improvements to transparency.

**(5) Revive the Manager’s Advisory Group (MAG).**

The City Manager's Advisory Group (MAG) was suspended in 2020 from March to July, as the Administration grappled with the COVID-19 pandemic's early impacts. Nearly 1,700 City employees were furloughed, including the Division Manager of Criminal Justice Initiatives. In addition, leadership changes in the City Manager’s Office required additional transition time. Meetings of the MAG resumed in September 2020. Since then, the City has:

- Resumed quarterly publishing of the Collaborative Agreement Performance Deck.
- Provided a Year 1 Summary on the Administration's 2019-2020 collaborative refresh work.
- Responded to questions and concerns from MAG members.
- Recruited ten new community members to serve on the MAG.
- Launched a new internal working group to improve interdepartmental coordination between the City Manager's Office, Police Department, CCA, Performance and Data Analytics, and the Solicitor’s Office on criminal justice matters.

**(6) Take steps necessary to fully implement a public safety academy within Cincinnati Public Schools.**

The City Administration and the Cincinnati Police Department support the establishment of a public safety academy to provide our young people a reasonable path toward employment at CPD. In 2018, the Charter was amended to allow the Civil Service Commission to award credit for police and fire recruits who graduated from a public safety academy established by the Cincinnati Public Schools (CPS).

We understand that CPS is in the process of implementing the public safety academy. The primary obstacle to realization is that to obtain civil service credit, the public safety academy must award a certification at the completion of the program. However, there are no peace officer certifications in Ohio that can be completed in that time by an individual under 18. As a result, CPD and CPS are considering various alternative certifications that would have value to the police department such as a private security certification. CPS and CPD are meeting in the coming weeks to assess the viability of these alternatives.

**(7) Improve policing data collection, analysis, and evaluation capabilities – including tracking by race.**

**A. Make data public.**

As detailed throughout this document and particularly in response to Item 1, CPD makes data public in a variety of formats.

**B. Desegregate adult and juvenile data.**

The Office of Performance and Data Analytics is available as a resource to assist the community in working with the Open Data Portal to conduct additional or more complex analysis.

As detailed in response to item 1 above, CPD has instituted a process improvement team that is actively working to fully implement electronic arrest reporting for every arrest. This will improve CPD’s ability to conduct detailed analysis of arrest activity. As of November 2020,

CPD has fully transitioned into the use of the electronic 527 Arrest Form in the Records Management System for all physical arrests citywide.

**(8) Coordinate Collaborative Refresh with all of these actions and implement refresh promptly.**

The City of Cincinnati continues to actively engage the spirit of the Collaborative Agreement, and to work toward ensuring that the tenants of the Collaborative Agreement are operative in Cincinnati. The Administration is currently soliciting ideas, suggestions, and feedback for our 2021-2022 collaborative refresh work. This process includes one-on-one meetings with members of the MAG, city leadership, and other key stakeholders and partners. A draft plan will be presented to the MAG for feedback in March 2021.

Attachment: Cincinnati Law Department Bail Reform Policy

cc: Sheryl Long, Assistant City Manager  
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