



MEMORANDUM

To: Nader Maroun, City Auditor

From: Sharon F. Owens, Deputy Mayor *Sharon F. Owens*

CC: Kenton Buckner, Chief of Police

Date: 4/20/20

Re: Response to Syracuse Police Department COVID-19 Procedures Audit

Overview

As indicated in the Auditor's report, "The response to the COVID-19 pandemic regarding deployment of Patrol Officers in the most efficient way possible, to contain the spread of COVID-19 while protecting themselves and the general public, should be seen as a learning experience going forward." What we can all "benefit" from now is the experience of operating during an unprecedented event. The knowledge gained will equip us for what we hope to never happen again; a worldwide pandemic or other catastrophic event.

At the same time the Syracuse Police Department (SPD) was making its staffing decision to ensure continuity of operations, the Detroit Police Department and New York City Police Department were losing upwards of 20% of their police workforce due to the virus or to quarantines. On March 31, 2020, Syracuse.com reported that more than 30 New York State Troopers tested positive for the virus. Recognizing what was occurring in cities across the nation; SPD feared it was possible to lose an entire shift of officers if someone on the shift became sick.

To avoid depleting its ranks to dangerous levels, SPD quickly sought guidance on how to prevent an outbreak among its ranks. In addition to washing hands and wearing PPE, one of the primary points of guidance SPD received from its own Emergency Management personnel, as well as external experts including the International Association of Chiefs of Police, the Police Executive Research Forum, and national and local health experts was to maintain separation in the workforce as much as possible. Consistent with this advice, the New York State Governor and the Onondaga County Executive both issued Executive Orders mandating a 100% reduction of the presence of the workforce in the workplace. While this order did not apply to essential workers, it did indicate the importance placed on reducing workplace density. Mayor Walsh also issued a directive to reduce the on-site workforce in each department where practicable.

The decision by SPD to place patrol officers on call was intended to reduce the risk of spread of the virus as well as the operational impact of officers being placed in 14-day quarantines. In addition to placing patrol officers on call, SPD took several other steps to maintain separation in

the workforce including:

- Stopped conducting in-person roll calls for patrol and transitioned to “electronic roll calls.”
- Issued a temporary operating procedure (TOP) reducing cross contamination between different sections of SPD during overtime, training and routine work.
- Required two of the Deputy Chiefs to work from home while the Chief and two other Deputy Chiefs worked from the office.
- Required personnel from the Support Services Bureau and Investigations Bureau to work from home.
- Reduced the scheduled four-day in-service training to two days of firearms weapon transition training. This allowed for smaller class sizes and social distancing.
- Cancelled or postponed several trainings, including Emergency Vehicle Operations, Cultural Competency, and Rescue Task Force, Fall Firearms, Domestic Violence Instructor, Breath Test Operator, RADAR/LIDAR, Cyber Security and numerous other outside training.
- Modified the 2020 In-Service Training in order to most effectively and safely meet the training mandates set forth by NYS Division of Criminal Justice Services Accreditation Standards.
- Moved the Syracuse Regional Police Academy to Whitman Hall at Syracuse University for social distancing purposes. The recruits were required to complete their physical training on their own, as group exercise was not allowed or recommended.

In addition to these measures, and with the same intent to separate the workforce, it was decided to modify the officers’ patrol schedule, as allowed under the Department’s Emergency Mobilization Policy. This policy is part of the Department’s Rules and Regulations and allows the Chief to modify schedules during times of emergencies. It was decided that patrol officers would be required to be on call from home on the last day of their 4-day tour of duty (patrol officers work 4 days on and 2 days off). This practice kept entire rest groups of officers (i.e. groups of officers that share the same schedule) separate from each other for multiple days in a row, greatly reducing the risk of exposure, infection and the resulting quarantines.

It is critical to note that COVID-19 killed more law enforcement officers in 2020 than all other causes combined. The precautions and policies enacted at SPD to prevent infections in the workforce were instrumental in our ability to navigate the pandemic and maintain a viable public safety workforce that could respond to the community’s needs.

Line of Duty Deaths (LODD) according to the Officer Down Memorial Page (www.odmp.org) increased by 99% from 2019 to 2020, with 56% of the 2020 deaths attributable to COVID.¹

Lastly, we address the time required to present information to and answer the questions of the City Auditor. The report referenced “the difficulty in obtaining information needed to complete this report.” The report also states “During the phone call the Mayor responded that the Police Department was working on a couple other significant issues.”

Regarding the timeliness of the Administration’s response to the Auditor’s request for information regarding this audit, the Department was fully immersed in efforts to implement multiple police reform initiatives required at the state and local level, including Executive Order by Mayor Walsh and Governor Cuomo. .It should be noted that there is a small number of SPD

¹ ODMP is a non-profit organization, partially funded by grants from the US Department of Justice Bureau of Justice Assistance. ODMP provides statistical data, notifications and resources pertaining to LODDs.

leaders and administrators who are primarily responsible for reform tasks and other special projects, including the Audit response.

The initial meeting between the Auditor and SPD occurred in early October. At this same time, the Department was finalizing new draft policies for public release, including the highly anticipated Use of Force and Body Worn Camera policies. (They were released on October 15, 2020.) Simultaneously, efforts were being made to complete officer training on body worn camera use. In October, November and December there were internal and external deadlines for progress on the following items under the Mayor's police reform agenda: Implementation of the Right to Know law (EO Action # 1), Military Surplus Procurement (EO Action #6), Dashboard Camera Trial (EO Action #5), Revision of No-Knock Warrants Policy (EO Action # 11), Improvement in Police Recruitment, Screening and Hiring (EO Action #14), and Non-Police Alternatives to Policing (EO # 15).

SPD was also fully engaged in the various components required by Governor Cuomo's Executive Order 203, including the significant role of leading the Onondaga County Police Reform and Reinvention Collaborative Police Operations Sub-committee. In this role, Chief Buckner and his team took the lead to address the topics of Use of Force, Body Worn Camera, and No Knock Warrant policies. Their work on this committee extended through December, 2020.

Concurrently with these police reform activities, the ongoing investigation of SPD by the New York State Office of the Attorney General was in an extremely active phase, with SPD being asked to respond to several labor-intensive information requests with deadlines in late October and November. Also at this time, the environmental situation with COVID was rapidly deteriorating. The Governor was introducing new cluster zone initiatives, and SPD leadership was closely involved in interpreting and enforcing these new guidelines.

And finally, the Department was also working at the time to keep its Commission on Accreditation for Law Enforcement Agencies (CALEA) national accreditation process on track, continuing to work through the Department's entire library of policies to review and, where necessary, update all policies, procedures, rules and regulations.

Response to Findings

Finding 1: The Syracuse Police Department Admitted to the Auditor That There Was No Written Policy in Effect When Officers Were Put On-Call. In Further Communication, the Syracuse Police Department Acknowledged There is Still No Written Policy in Place, Over One Year On From Chief Buckner's Decision.

Since there is no policy there could not have been any evaluation of the success of the policy, nor is there any written template to follow in case such a policy is needed again. As things stand, there is no accountability regarding how long an Officer on-call is given to report for duty. On March 2, 2021, Chief Buckner responded to this question:

“When officers were required to come back into work they came from different locations so there was no set time for response. The officers were called and responded directly from their homes.”

We agree with this finding. A written on-call policy would have been appropriate, however, please consider the pace at which the pandemic was unfolding which made the issuance of a

policy at that time very time prohibitive.

The Police Department commits to establishing a written policy regarding placing officers on call within the next 60 days.

Finding 2: There is No Evidence That the Mayor and Deputy Mayor Played a Role in This Decision.

While the Mayor issued a statement supporting the Chief's decision, there is little clarity about exactly when the Mayor was informed about this significant policy change. The Auditor had requested both verbally on October 9, 2020 and in writing on October 29, 2020 and February 12, 2021 for a clarification of this issue. The Syracuse Police Department ultimately acknowledged on March 2, 2021:

“The Mayor /Administration were not involved in the decision making of the on-call policy. The decision was approved by Chief Buckner.”

We agree with this finding.

Finding 3: The Syracuse Police Department Erred by Not Notifying the Common Council of the New Policy.

Since this new policy required a change in staffing and an increase in the amount of overtime paid, with the Common Council in charge of budgetary oversight, members should have been apprised before the policy was implemented.

While the administration agrees that communication between the Chief of the Police and the Common Council is generally important and desirable, we wish to clarify that there was no *legal* requirement that the Chief notify the Council before the policy was implemented. The Charter provides that:

“The chief of police, with the approval of the mayor, shall make, adopt, promulgate and enforce such reasonable rules, orders and regulations for the government, discipline, administration and disposition of the officers and members of the department of police as may be necessary to carry out the functions of the department.” Section 5-1409 (emphasis added.)

Thus, the authority to change a departmental policy or adjust staffing sits squarely with the Chief, in concert with the Mayor. The policy at issue in this audit was purely a staffing decision—a decision of how best to deploy the budgeted resources of the Department in the context of a public health emergency. These are the types of operational decisions that are reserved for the Chief and Mayor.

Moreover, even if the policy led to the need to shift budgeted resources within the Police Department (and it is not clear that it did), the authority to shift budgeted funds *within* a department is also a mayoral power.

Section 5-205A of the City Charter states as follows:

“In addition to the powers and duties provided in section 5-205 herein the mayor shall:

...(3) Transfer appropriations *within* an office, department, or board, from one class or work

program to another.” (emphasis added.)

This is in contrast to Section 5-205B, dealing with appropriations *between* departments, which does require Common Council approval. This on-call policy did not require an inter-departmental budget transfer, and so there was no formal or legal requirement for the Council to weigh in or notified prior to the decision.

Finding 4: The Chief of Police Was Remiss in Not Developing Alternative Socially Distanced Assignments For the Officers.

Since the primary rationale for this policy was to contain the spread of coronavirus and protect both officers and the general public, there are other ways that social distancing and workforce separation could have been used to both mitigate the need for an on call policy and provide value to City taxpayers. This seems quite likely since the need for overtime rose despite Officers being on call at home.

We disagree with this finding for two primary reasons.

a. The officers that were placed on-call had to be available at a moment’s notice to respond back to their patrol function if needed. If the officers had been reassigned to other posts to meet the needs of the pandemic then they would not have been available for patrol when needed.

However, in the future we will consider having officers complete training while they are on call.

b. The Police Department’s written cross contamination policy prevented officers from being utilized in other areas of the Department so as to avoid exposures to other personnel and the lengthy quarantines and contractions of the virus that could result.

Finding 5: There Were Extra Personnel Given Overtime To Reach Full Strength On a Shift While Other Officers Were Taken Off Their Normal Schedules To Be On Call.

After these Officers were given overtime, the call volume was assessed to determine whether personnel could be sent home to be on call. If some Officers were subsequently sent home, this suggests that overtime costs were unnecessarily affected. The Syracuse Police Department responded:

“In retrospect, the shift should not have hired officers on OT and subsequently sent personnel home. This will serve as a lesson learned going forward.”

We agree with this finding. In hindsight this practice should not have occurred. In the future, we will make sure the watches do not incur overtime while still having officers on call.

Finding 6: There Is No Evidence That the Policy Was Any More Effective in Preventing the Spread of COVID Than Other Means of Workforce Separation

While this may be difficult to determine easily, there is no evidence of the Syracuse Police Department reaching out to experts on an ongoing basis regarding the

coronavirus for their opinions. The Department did not, for example, consult the Onondaga County Health Department about the policy. Furthermore, there does not seem to be any accountability for officers to conform to the COVID mask-wearing policy (see Appendix M).

We disagree with this finding. Although SPD did not consult with the Onondaga County Health Department on the specific practice of having officers on call, the Department reviewed guidance issued by the County Health Department, and consulted with a variety of federal and state organizations in determining this course of action. In addition to washing hands and wearing PPE, one of the primary points of guidance the Department received from our Emergency Management team, International Association of Chiefs of Police and the Police Executive Research Forum was to maintain as much separation in our workforce as possible. Please refer to the list of other changes the Department made to reduce exposure in the overview above.

In the future, the Department will specifically ask the County Health Department for guidance.

For more specifics as to what guidance SPD considered when deciding how to respond in the initial stages of the pandemic, consider the following:

- a. A memorandum issued by the New York State Department of Health on March 28th, 2020 and titled *Interim Guidance for Law Enforcement Agencies to Limit Potential Exposure to COVID-19* specifically stated: (Appendix 1)

“Law enforcement agencies may promulgate specific directives to their personnel and officers that is consistent with this interim guidance. However, given the rapidly changing nature of this public health emergency and the critical mission of law enforcement, agencies may adapt or adjust their specific protocols and procedures to ensure appropriate staffing and effective operations.”

- b. Mayor Walsh also issued a directive to reduce the on-site workforce of each department. (Appendix 2)

“As we consider how the City will be managed during this time, the health and wellbeing of our employees is paramount. The guidance my office shared with Department Heads designates essential and non-essential city departments and functions. We have asked the Department Heads and their teams to begin the transition to remote work for non-essential services immediately and to complete it by the end of the day tomorrow. We also asked Department Heads who oversee essential services to ensure that staffing plans are in place to continue those services and to ensure that special health and safety precautions, where necessary, are taken.”

- c. The International Association of Chiefs of Police issued a COVID-19 Response document on March 30th, 2020 which stated the following (Appendix 3, page 14):

9. Assign officers to be “on call” and immediately available should other on-duty officers become ill or be forced to self-quarantine.

- d. In October 2009, The Bureau of Justice Assistance released a document called *Benchmarks for Developing a Law Enforcement Pandemic Flu Plan*. In that document the following guidance was given (Appendix 4, page 23) :

“A pandemic influenza can cause significant reductions in a law enforcement department’s workforce. Recognizing this, the planning team will need to take several steps to identify the law enforcement department’s most critical activities that must continue despite the losses in staffing. The team also must plan to protect employees. Smaller agencies, for example, might plan to use or deputize local security guards or citizen volunteers. Most agencies are experienced in addressing minimum staffing requirements and “ramping up” staffing for significant short-term events. However, fewer departments are familiar with downsizing staffing to ensure longer-term sustainability or with reassigning staff (sworn and non-sworn) to ensure that critical functions are maintained.”

With regard to conformity to the COVID-19 mask-wearing policy, an investigation was conducted and the officers were officially disciplined for not wearing masks as per Department policy for the incident reported in **Appendix M**.

Finding 7: The Syracuse Police Department Could Not Submit Data With Regard to Any Overtime Paid to Officers Who Also Participated in the On Call Policy.

According to the Syracuse Police Department:

“extensive shortcomings of the City’s current AS-400 payroll system” prevent compiling and searching the data to provide this information in a manner that is not “labor intensive.”

The overtime for officers who actually worked during the time period was provided, but due to the system’s limitations there is no way to tell whether any of the officers receiving overtime were also on call. As a result of this lack of data, there is no clear way to determine the actual effect of the policy on the taxpayers.

We agree with this finding. The implementation of Kronos and Telestaff are a major priority for the administration and SPD. Please see identified commitment under recommendation 5, below.

Response to Recommendations

Recommendation 1: The Syracuse Police Department Needs to Provide and Document Formal Policy Information in a Much More Timely Manner. Specifically, in this case, a Formal Written On-Call Policy Needs to be Completed Immediately, to assure the City of Syracuse Taxpayers that Proper Procedures and Internal Controls are in place.

This audit was requested September 25, 2020. The information the City Auditor required in order to carry out the audit was not immediately forthcoming, which delayed its completion (see Appendix E). As previously mentioned in Finding 1, the Syracuse Police Department acknowledged there is still no written policy in place, over one year later.

We agree with this recommendation. See the response above, under Finding #1.

Recommendation 2: The Mayor Needs to be Included in the Decision Making Process on All Issues that Have Significant Policy and Budgetary Implications.

Clearly, the on-call policy decision made by Chief Buckner had both significant policy and budgetary implications; hence the Mayor, as Chief Executive of the City of Syracuse, should have been part of the decision-making process.

We agree with this recommendation.

Recommendation 3: In the Future, Information About Any Change in Policy or Procedure Which May Affect the Budget Should Be Communicated Immediately to the Syracuse Common Council.

Transparency and timeliness are essential to prevent misunderstandings and maintain public trust with the Department. Expenditure of public funds should have oversight, which would ensure that sound management decisions accompanied the disbursement of such funds.

As discussed under the response to Finding #3, above, the administration agrees that transparency is an essential component of good governance. However, the administration wishes to clarify that while open communication between the Chief of Police and the Common Council is important, there is no *legal or policy* requirement that the Department communicate all policy changes to the Council immediately. The authority to make decisions regarding the deployment of budgeted resources falls within the authority of the Mayor and Police Chief, even if it involves re-allocating resources within the department. Unless there is a need to adjust budgeted amounts through a mid-year transfer, *i.e.*, to add funds to a department's budget by transferring resources from another department, the City Charter does not *require* that the Council be notified.

Recommendation 4: The Syracuse Police Department Needs to Improve its “Outside-the-Box” Thinking When Facing Unprecedented and Unique Situations.

Police Chief Buckner said the practice of sending Officers home was meant to limit their interactions with each other and the public to prevent the spread of the coronavirus. The Syracuse Police Department didn't need as many officers because calls plummeted in the pandemic, according to Chief Buckner.

With not enough work to do and a union contract saying officers cannot be furloughed, Chief Buckner said, he made the decision to send them home and pay them:

“What was I supposed to do? Sit with my hands up my ass and just say, ‘Well, what should we do?’ Let me send all 50 guys out on the street when I need 35 of them?” Buckner said. “What was I supposed to do with them?” (see Appendix B).

The response to the COVID-19 pandemic regarding deployment of Patrol Officers in the most efficient way possible, to contain the spread of COVID-19 while protecting themselves and the general public, should be seen as a learning experience going forward. Alternative socially distanced assignments for all Officers would have mitigated the need for a special on-call policy while providing value to the City of Syracuse taxpayers.

We disagree with this recommendation for the reasons discussed under Finding # 4.

Recommendation 5: The Syracuse Police Department Should Differentiate More Clearly Between Overtime Pay and Bonus Pay.

Based on the information provided by the Syracuse Police Department (see Appendix E), the Syracuse Police Department should undertake a strict review of the way overtime pay and “bonus” pay (see Appendix N) are accounted for in the Department’s records.

We agree with this recommendation. In response to a directive from the Mayor, Chief Buckner has engaged in efforts to curtail the use of overtime. The use of “bonus” pay is established through the PBA contract. Chief Buckner, however, has initiated conversations with Chief Administrative Officer Frank Caliva regarding modifying existing systems.

The implementation of Kronos and Telestaff will be extremely helpful in allowing the Department to better account for, analyze and manage the use of overtime and bonus time. The implementation project is ongoing and continues to be a major priority for the administration and SPD.

Recommendation 6: The Syracuse Police Department Needs to Consult with the Onondaga County Health Department and/or Other Health Experts as a Matter of Standard Operating Procedure in All Public Health Issues.

It is vitally essential that the Syracuse Police Department consistently and transparently collaborate with public health officials when necessary, especially in the circumstances surrounding the COVID-19 pandemic.

We agree with the importance of collaborating with public health experts, and disagree that SPD failed to do so. As detailed under Finding #6, above, SPD consulted a variety of federal, state and local expert organizations in determining this course of action.

Recommendation 7: The Syracuse Police Department and the City of Syracuse Must Find a Scheduling /Payroll System That Is More Efficient in Providing Information

It is essential that the Syracuse Police Department be able to provide accurate data, records, and documentation regarding its policies, particularly with regard to personnel and payroll. Without receiving this information from the Syracuse Police Department, it is impossible for the Auditor to determine whether officers were paid appropriately.

Note: The City of Syracuse has been attempting for nearly two years now the implementation of a time management system called Kronos, which was intended to initiate with the Syracuse Police Department. To date, however, no system is currently in place. Given the antiquated methods of time management currently utilized in the Syracuse Police Department, specifically with overtime accountability, the implementation of Kronos should be priority number one for the City of Syracuse in terms of assuring taxpayers that proper internal controls are in place, and a level of accountability not ever experienced, in regards to overtime/bonus accounting.

We agree with this recommendation. As identified in the report, the city's aging AS400 based payroll system has a number of deficiencies, not the least of which is its limited ability to provide accurate data, records, and documentation regarding end to end payroll rules, practices, and reporting.

The project to update the system kicked off in November of 2019. The original timeline projected that SPD would be live on Telestaff and Workforce Central by September of 2020. A number of unforeseen challenges, including the pandemic, have reset that expectation. That said, additional resources are being identified and applied and the project milestones are currently being updated.

It should be noted that there are four separate technology implementation requirements:

- Telestaff (public safety employee scheduling);
- Workforce Central (city-wide time, attendance and pay policies);
- Kronos (city-wide payroll system); and
- PeopleSoft HCM (human capital management, core system integration.)

Telestaff is the current critical implementation. Telestaff will provide overtime hours* reporting for public safety until the full integration with the City's accounting system is complete. Telestaff is scheduled for full testing in late spring and to be live this summer.

** Telestaff is a digital scheduling and timecard system. Reporting will be limited to number and type of hours. Telestaff will not report on payments.*