



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 03/16/2021

ITEM NO: 8

DATE: March 10, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Accept the Quarterly Police Reforms Update

RECOMMENDATION:

Accept the Quarterly Police Reforms Update.

BACKGROUND:

Since late May 2020 after the murder of George Floyd by Minneapolis Police, the Town has received considerable public input regarding the Town's Police budget and ideas for potential Police reforms. Input has been provided via email, and public comment at the General Plan Update Advisory Committee and Council meetings.

In addition, the Town held a community workshop on September 8 facilitated by retired Judge LaDoris Cordell to discuss potential reforms.

All of this input and additional public testimony were considered by the Town Council on September 15, 2020 for an agenda item regarding potential Police reforms. After discussion, the Council unanimously approved four motions to direct staff to:

- Pursue a model of police oversight and authorize the Town Manager to work with Judge Cordell to develop ideas to be reported to Council;
- Explore mental health and social services options and to report findings to Council;
- Investigate the use of non-sworn personnel including ramifications for staffing and budgeting and to report findings to Council; and
- Pursue increased transparency and data accessibility by the public, including reporting stop statistics and apples-to-apples data comparisons with other jurisdictions, and to report findings to Council.

Reviewed by: Assistant Town Manager, Town Attorney, and Police Chief

BACKGROUND (continued):

On November 3, 2020, the Town Council voted unanimously to:

1. Direct staff to work with the County of Santa Clara regarding responses to mental health and homeless calls for service, with the understanding that response times will be reviewed annually to monitor how well the County positions are staffed and response times to the Town's calls for service.
2. Acknowledge the timeline for police stop data availability and transparency.
3. Authorize the Town Manager to establish an Independent Police Auditor (IPA) function with a preference given for retired attorneys or judges, clarify that the Police Chief may see the investigator's report and cannot alter it, and publish the IPA report quarterly.
4. Refer the consideration of adding a limited dated Community Service Officer position to the Town's budget process for the 2021/2022 fiscal year.

While the Council requested quarterly reports on the IPA function, this item provides updates on all of the reforms under way and potential next steps.

DISCUSSION:

Collaboration with the County of Santa Clara

For the March 16 Council meeting, the Town invited Santa Clara County Behavioral Health Services (BHS) staff to talk about their Mobile Crisis Response Team (MCRT) and the collaboration with law enforcement agencies in the County. This is one of a growing number of programs in the nation that bridges law enforcement and social services to address crisis situations. Mikelle Le is a BHS director who oversees the Mobile Crisis Response Team. Shawn Ahearn is a retired Sunnyvale Department of Public Safety Captain who now serves as a Law Enforcement Liaison for BHS and works closely with MCRT. In his current role, from July through December 2020, Mr. Ahearn has provided Crisis Intervention/De-escalation Interactive Video Scenario Training (IVST) to 430 law enforcement Officers County-wide.

Calls for service to the MCRT come directly from the public (1-800-704-0900) or from law enforcement agencies 24/7. The teams respond to individuals in crisis that exhibit mental health symptoms, may be suicidal, or at-risk and need an evaluation for psychiatric hospitalization. Teams are made of up licensed clinicians and therapists with training and expertise in crisis response. MCRT clinicians assess the situation and if there is a possibility of violence, the clinicians will call for law enforcement support. Officers may stand by or assist in calming the situation, depending on the circumstances.

Mobile Crisis Response Teams work closely with law enforcement, crisis hotlines, the community, and family members. The services include crisis screening, intervention, de-escalation services, and referrals to community resources.

DISCUSSION (continued):

Ms. Le and Captain Ahearn will present an overview of the program and will be available to answer the Council's questions, including but not limited to the variety of mental health calls, when MCRT is most useful, and how our partnership is evolving.

MCRT service data indicate a large uptick in services from 2019 to 2020, as depicted below.

Services	2019	2020	Percent Increase
Calls Received	1,292	3,405	163.5%
Service Provided	593	1,373	131.5%
Field Visit	310	1,127	263.6%
5150	128	348	171.9%

Attachment 2 contains information from BHS by law enforcement agency for agency referrals, field visits, and 5150 (section of the Welfare and Institutions Code allows an adult who is experiencing a mental health crisis to be involuntarily detained for a 72-hour psychiatric hospitalization when determined to be a danger to others or themselves, or gravely disabled).

LGMSPD writes an annual average of 131 reports for mental health incidents. In Q4 2020, LGMSPD Officers responded to approximately 46 calls for service related to mental health issues. Mental health calls range from a suicide attempt or threats of self-harm to a person acting oddly on a street corner or in a business. For these calls, an Officer is sent to assess the situation, determine options, and take appropriate action. The Officers' training in de-escalation and crisis intervention, and the Department's value of compassion are key to successful interaction with the affected individual(s), family members, and/or other participants.

Not all of the calls for mental health service result in a written report. In addition, not all of the calls involve a crisis needing MCRT services. For example, if Officers determine that a 5150 hold is necessary after assessing the situation, this can be handled without MCRT. For other calls, a crisis may benefit from the MCRT involvement and some of these instances may also ultimately result in a 5150 hold. In addition, the Chief is working on an option for transporting non-violent subjects to psychiatric facilities in an ambulance rather than a Police car.

In addition to collaborating with MCRT for some mental health calls, the Department is continuing to implement additional mechanisms to support the community. For example, the Department has implemented the Special Needs Assessment Program (SNAP). SNAP is a voluntary and confidential program designed to increase the safety and security of community

DISCUSSION (continued):

members with special needs by providing first responders with information that will help them adjust their actions to each specific circumstance.

The Department is also formalizing collateral duties for a Sergeant and Corporal with a working title of Vulnerable Communities Response Coordinator. The duties include:

1. Oversee Department efforts to provide optimum response to individuals with mental health concerns, emphasizing compassion and sanctity of life
 - a. Ensure the highest margin of safety for the individual and first responders
 - b. Seek long term solutions
2. Cultivate a team approach to mental health response with Behavioral Health Services (adult) and Uplift (juvenile) Mobile Response and Stabilization Services
 - a. Ensure Officers and Dispatchers are utilizing all available resources appropriately
 - b. Collect accurate data to maintain an effective strategy
3. Research innovative ways of dealing with juveniles in mental health crisis (alternative modes of transport, etc.)
4. Develop a curriculum of enhanced Crisis Intervention Team training for all Patrol and Dispatch personnel
5. Develop strategies and maintain partnerships to assist the homeless population with the same focus on ensuring safety and seeking long term solutions.

Police Stop Data

The Racial Identity Profiling Act (RIPA) requires Los Gatos to begin collecting data beginning January 2022 and reporting to the Department of Justice in April 2023. Given the Council and community's interest in stop data in advance of that date, the Police Department began collecting an abbreviated version of RIPA stop data in October 2020. At the conclusion of every self-initiated vehicle and pedestrian stop, Officers have been including information on the subject's age, gender and ethnicity based on the Officers' perception. For future reports, we look forward to sharing data on all of these parameters for the Town of Los Gatos.

For the period of October 1 through December 2020, ethnicity data for Los Gatos and Monte Sereno traffic stops are shown in the table below.

DISCUSSION (continued):

Action Taken	Total	White	Black	Asian	Hispanic	Other
Arrest	25	9 (36%)	5 (20%)	1 (4%)	10 (40%)	0 (0%)
Citation	152	84 (55%)	4 (3%)	12 (8%)	26 (17%)	26 (17%)
Warning/Assistance	637	351 (55%)	17 (3%)	53 (8%)	141 (22%)	75 (12%)
Total	814	444 (55%)	26 (3%)	66 (8%)	177 (22%)	101 (12%)

For comparison purposes, the available ethnic data for Los Gatos and Monte Sereno are contained in the table below:

Jurisdiction	Total	White	Black	Asian	Hispanic	Other
Los Gatos	30,933	22,200 (72%)	462 (1%)	4,430 (14%)	2,110 (7%)	1,731 (6%)
Monte Sereno	3,497	2,610 (75%)	56 (1%)	579 (17%)	87 (2%)	165 (5%)

Use of Force

In all of the 814 contacts during the reporting period, force was used only twice. As with every use of force incident, the Department conducted a Use of Force Review and determined that in each case the use of force was within Department policy. In these cases, the only force option utilized was body force.

In 2020, Mayor Jensen signed onto the Obama Foundation Mayor Pledge which focuses on use of force. In addition, the 8 Can't Wait Campaign works to bring immediate change to Police Departments. The Department has reviewed the 8 Can't Wait requests for change and for each category, identified the Department's approach as follows.

- De-Escalation of Force
 - It is a fundamental characteristic of the Police Department's culture to attempt to de-escalate individuals in crisis when the totality of the circumstances allows an

DISCUSSION (continued):

- opportunity to do so. The practice of de-escalation is interwoven throughout the Department's operations and is included in the Department's policies for use of force, crisis intervention, mental illness, and civil disputes. In 2019, the Department was awarded a grant by the California Commission on Peace Officer Standards and Training Innovations Grant Program to augment the integration of de-escalation techniques into its defensive tactics training curriculum.
- In July 2019, LGMSPD adopted the concept of "Tactical Conduct" as a policy. Tactical conduct addresses decisions and actions that Officers must consider preceding a potential use of force and delineates considerations such as the core transaction; level of urgency; threat assessment; use of time, distance and cover; and crisis intervention techniques.
 - Chokeholds and strangleholds
 - The Department's Policy Manual was updated to prohibit the use of the carotid control hold or any other Lateral Vascular Neck Restraint that renders a subject unconscious by restricting the flow of blood to the brain by any member of the Department. Choke holds or any other control hold that uses any part of the Officer's body to compress the airway and render a subject unconscious remains prohibited. California law now bars chokeholds.
 - Duty to intercede
 - Los Gatos-Monte Sereno Police Department Policy Manual Section 300.2.1 DUTY TO INTERCEDE states that any Officer present and observing another Officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. In addition, any Officer who observes another employee use force that exceeds the degree of force permitted by law will promptly report these observations to a supervisor.
 - Warning before shooting
 - Department policy delineates a variety of use of force situations in which Officers should issue verbal warnings if circumstances permit. In the case of deadly force applications, the policy is consistent with California Penal Code Section 835a. LGMSPD Policy Manual Section 300.4 DEADLY FORCE APPLICATIONS has been updated to clarify that, if feasible, a verbal warning should be issued in all cases where deadly force may be used.
 - Shooting at moving vehicles
 - LGMSPD Policy Manual Section 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES states that shots fired at or from a moving vehicle are rarely effective and Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An Officer should only discharge a firearm at a moving vehicle or its occupants when the Officer reasonably believes

DISCUSSION (continued):

- there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the Officer or others.
- Comprehensive use of force reporting
 - LGMSPD Policy Manual Section 300.5 REPORTING THE USE OF FORCE delineates that any use of force by a member of this Department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The Officer should articulate the factors perceived and why s/he believed the use of force was reasonable under the circumstances. In addition, LGMSPD complies annually with Government Code 12525.2 that requires law enforcement agencies to furnish the California Department of Justice with a report of specific data encompassing all instances of Officer-involved shootings and incidents where use of force resulted in serious bodily injury.
 - Exhausting all means before shooting
 - LGMSPD Policy Manual Section 300.4 DEADLY FORCE APPLICATIONS states that if an objectively reasonable Officer would consider it safe and feasible to do so under the totality of the circumstances, Officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. This is aligned with California Penal Code Section 835a, that was updated in 2020 to reflect the mandates of Assembly Bill 392. Requiring Officers in tense and uncertain circumstances to exhaust any and all possible alternatives is simply not realistic when they are confronted with immediate threats and must make life or death decisions in fractions of a second.
 - Continuum of force
 - The use of force continuum is an outdated model that has proven impractical, even dangerous, when applied in real life situations. It does not allow for consideration that Officers must often make rapid decisions regarding the amount of force to use in tense, uncertain and rapidly evolving situations. Instead, LGMSPD policies focus on requiring Officers to create space and separation in potential use of force situations so that de-escalation techniques can be implemented.

Training

The Department is committed to train its personnel in best practices to de-escalate situations and respond in challenging crisis situations. Specifically, all Sworn personnel have been or will be required to attend:

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| • Cultural Diversity | July 2019 |
| • Assembly Bill 392: Use of Force update (Supervisors) | December 2020 |
| • Advanced Officer Training: Defensive Tactics & de-escalation of force | December 2020 |
| • Advanced Officer Training: Fair & Impartial Policing | March 2021 |
| • Lexipol (Policy Manual) Daily Training bulletins | Monthly |

DISCUSSION (continued):

Additional individual or small group training is provided:

- Critical Incident Response: Use of Force and De-Escalation
- Tactical Communications Instructor
- Crisis Intervention Training Academy
- Basic Peer Support
- Integrating Communications, Assessment and Tactics: Train the trainer
- Trauma, Exposure, and Management
- Exploring Racism and Living Solution
- Courageous Heart: The Human Behind the Badge (mindfulness and compassion cultivation)

The Chief has set a goal for all personnel to exceed the minimum number of hours of training in de-escalation and crisis intervention. This investment equips Officers with specific skills to evaluate a situation and employ the most appropriate strategy to calm the incident, ensure safety for all, and determine appropriate next steps. These skills provide a common language and approach for the Town's partnership with the County's Mobile Crisis Response Team described earlier.

Independent Police Auditor Function

The Town issued a Request for Qualifications to seek qualified consultants to conduct independent investigations of community complaints against Sworn personnel (see Attachment 2). Five firms submitted qualifications. Town Attorney Schultz and the Honorable LaDoris Cordell will be evaluating the submittals and determining which firms should enter into agreements with the Town to provide these services.

The Town is also updating its complaint form and directing community members to file complaints with the Town Clerk. The Town will be promoting its independent auditor function in the hopes that community members will come forward with concerns and complaints. Every quarter, the Council will receive a report on the complaints in a manner that does not disclose confidential information. Since fall 2020, no complaints have been received.

Community Service Officer and Responding to Non-Emergency Calls

The Department has filled the existing part-time Community Service Officer (CSO) Intern positions and both interns are currently in the field training program. CSO Interns will accomplish many of the tasks of a full-time CSO, but as college students, they will not be placed in enforcement scenarios. Instead they will focus on completing low level property crime reports in addition to other service-related tasks.

DISCUSSION (continued):

During Q4 the Department has received a total of 8,698 Priority 1, 2 and 3 calls of which Officers responded to 3,248. The rest of the calls were either handled by the Dispatchers or the callers were referred to other resources. In the cases where Officers responded in person, many involved a criminal investigation and often these community contacts provided Officers with opportunities to understand non-criminal issues of concern to community members and establish relationships with residents, visitors, and businesses.

CONCLUSION AND NEXT STEPS:

As discussed above, the Police Department is continuing to refine its new database management system to better extract and analyze vehicle and pedestrian stop data. As this information becomes available, the Town Council will receive updates and the data will be posted to the Department's website. We expect to have more data available for the next quarterly report.

As Police reforms are important towards Los Gatos becoming a more inclusive community, additional actions are also needed to address justice, equity, diversity, and inclusion (JEDI). For this reason, the Council Policy Committee will be considering a draft JEDI work plan at its March 23rd meeting. The Committee's work will be reported out to the full Town Council. All of the Town's efforts in this regard can be found on the Town's website at <https://www.losgatosca.gov/2604/Becoming-an-Inclusive-Community>.

COORDINATION:

The preparation of this report was coordinated with the Police Department and County of Santa Clara Behavioral Health Services Department.

FISCAL IMPACT:

The acceptance of this report has no fiscal implications.

ENVIRONMENTAL ASSESSMENT:

This item is not a project defined under CEQA, and no further action is required.

Attachments:

1. MCRT Data
2. Independent Police Auditor RFQ