ALBANY MUST ASK FOR AN EXTENSION OF THE POLICING PLAN DEADLINE

It is distressing that the City’s administration has so utterly failed the Albany community during Black History month. On Abraham Lincoln’s birthday, the City offered an extraordinarily inadequate and non-committal policing reinvention “plan” for consideration by the Common Council. With only six weeks left before the State’s deadline, the City submitted far too little, far too late. In the words of Reverend Martin Luther King, Jr.:

“We are now faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history there is such a thing as being too late.”

Fraught with spelling errors, improper grammar, inconsistent formatting, and insufficient content, the “plan” submitted to the Common Council’s Public Safety Committee by the Office of the Mayor is so fundamentally flawed that it simply cannot be fixed by the April 1st deadline. It is exceedingly disheartening that some might be willing to proceed with this unacceptable plan to avoid the loss of State funding. The Albany Common Council should join other bodies across the state in petitioning the Governor to extend the policing plan deadline to November 1, 2021.

The “plan” submitted by the Office of the Mayor fails to meet Governor Cuomo’s mandate to reinvent policing, and is an absolute affront to Albany’s African American community. Governor Cuomo’s Executive Order #203 was issued in the wake of national protests over the murder of George Floyd by a Minneapolis police officer. The order states that “urgent and immediate action is needed to eliminate racial inequities in policing,” and directs the chief executive of each local government to convene a collaborative to develop a police reform and reinvention plan. When the Governor issued the order last year, African Americans all across the state rejoiced that New Yorkers were about to experience an historic moment in which policing in our communities would be truly transformed.

Albany’s Collaborative members did everything the City asked of them, and are to be commended for the tireless effort and countless hours they volunteered to produce a thorough set of recommendations. Indeed, many of the Collaborative’s recommendations provide a solid foundation for the transformative change mandated by the Governor. Maddeningly, the “plan” submitted by the Mayor’s Office does little to promote that change, and the City’s inefficient time management now precludes community members from participation in the most important decisions in the process: determining exactly what is to be done, by whom, and when.

The workbook the Governor’s office provided to assist localities in producing plans provides guidelines for “successfully developing and ratifying a redesigned police force by April 1, 2021, as
required by Executive Order No. 203.” The City has submitted not a plan for a redesigned police force but, rather, a document that generally defers decisions and virtually eliminates community oversight of the decision-making process. The “plan” largely describes not how, when and by whom each Collaborative recommendation will be implemented but, rather, the schedule for the City --- and the City alone, without the Collaborative or other community members --- to decide at a later time whether or not each recommendation will be implemented.

Through the use of equivocal language, the City actually commits to very little change at all. For example, all five action plan items the City offers in the “Civilian Oversight” working group’s section of the “plan” state that the City will “take into consideration” or “take under advisement” or “take into account” Collaborative recommendations. This allows the City the option of later “considering” any truly transformative recommendation and eventually rejecting it --- and, in some cases, taking three years to do so! These decisions should be made prior to submission of a comprehensive plan to the State, and with input from the Collaborative. It is not as if the police are hearing these recommendations for the first time in the “plan;” the APD has had at least one representative on each of the five working groups from the outset.

In addition to the use of equivocal language, in some places the “plan” conditions implementation of Collaborative recommendations on improvements to APD IT systems. For example, the Collaborative recommends that Freedom of Information Law requests be posted on an easily accessible portal. The “plan’s” action item addressing this recommendation (and nine others) states, “As APD evaluates its IT systems, it will develop disclosure strategies that take into account these recommendations.” This phrasing allows the City two avenues through which to avoid implementing this particular recommendation. The “action item” conditions implementing the recommendation on an evaluation of IT systems, which has no time frame. If the evaluation never happens, the recommendation never gets implemented. And if the IT systems evaluation does happen, the City can say it “took into account” the recommendation and decided it was inadvisable.

A third avenue for the City’s evasion of this particular recommendation is the categorization of the action plan item as “RA” --- requires authorization. In the words of the plan, “[RA] includes recommendations that require changes in State law, changes in civil service rules or union negotiation. Accordingly, the desired timeline may be impacted by such authorization.” Action items designated “RA” in the “plan” rarely offer details regarding the manner in which the City plans to diligently pursue acquisition of the required authorization from the appropriate entity. In the absence of these details, a designation of “RA” allows the City to absolve itself from any responsibility for implementation of the recommendation.

Another designation used in the plan --- “OI” --- presents problems in its omission from a number of action items. According to the “plan,” “some of the recommendations are for changes to institutions that are not controlled by the City. Out of respect for the work of the Collaborative, and as a way to help influence other institutions that impact structural racism in our criminal justice system, we have retained those recommendations in the Collaborative report and identified them as OI (Other Institution).”

The “OI” designation is omitted from some action items which the City actually does not have authority to implement, acting alone. For example, in action items 1.1 and 4.1, neither of which carry the “OI” designation, the City commits to making changes to the LEAD program within an 18-month time frame. Neither the Mayor’s Office nor the Albany Police Department possesses this authority. As only
two of the eight signatories on the 2015 LEAD Memorandum of Understanding (MOU), they are powerless to make changes to the LEAD program. All such changes must be approved by the LEAD Policy Coordinating Group, comprised of all the MOU signatories. In omitting the “OI” designation from these two items, the City makes commitments it lacks the authority to deliver.

Some truly transformative Collaborative recommendations are glossed over entirely in the “plan.” For example, the “Police Department Functions” working group recommends in its report that a Civilian Public Safety Commission be created. Says the working group, “Many of our recommendations call for non-sworn individuals to respond – all of which could be housed under a civilian public safety commission that is independent from APD but has “teeth” that allow them to do meaningful work.” The working group recommends this independent body be staffed by civilian case workers dedicated to addressing incidences involving truancy, mental illness, substance abuse, homelessness, and other non-law-enforcement incidents currently responded to by the APD. The City dismissingly labels this truly transformative recommendation, along with three related recommendations, as “Additional Policy Recommendations.” The “plan” includes no “action item” following these recommendations --- merely a notation to “See Action 3.5 above.” Action 3.5 speaks primarily to increasing resources within the APD, and does not even mention a “Civilian Public Safety Commission.”

These are but a few of the shortcomings of the “plan” submitted by the City. The Albany Common Council should table the City’s “plan” and pass a resolution calling for an extension of the State’s policing plan deadline to November 1, 2021. This would be the proper way to respect the voice of Albany’s African American community during Black History Month, as well as the voices of other people of color.

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