Structural Racism & Public Safety In Albany

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“In a democracy, it is the task of activists and revolutionaries to demand that we pay attention to society’s ills, and it is the task of leaders and functionaries to carry out changes citizens embrace” (Rex Smith, Times Union) “...and right the wrongs that have been heaped on its oppressed people.” (Alice Green)

COMING IN 2020

“We Who Believe In Freedom”
-History of a Social Justice Movement in Albany
by Alice Green
# STRUCTURAL RACISM AND PUBLIC SAFETY IN ALBANY

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Executive Summary

In August 2019 the Center for Law and Justice released “Pathway to Reformative Change: Public Safety, Law Enforcement, and the Albany Community.” The report presented shocking findings regarding the level of mistrust city residents, particularly in communities of color, hold for the Albany Police Department and the District Attorney’s Office. Several controversial incidents in 2018 and 2019 have resulted in disbelief among citizens that these two entities are trustworthy, treat community members with respect, act in a fair manner, and accept community input regarding police and prosecution policies and practices.

That report was embraced by community members and all but ignored by government officials. The Center had intended for the “Pathway” report to serve as a catalyst for transformative change by sparking dialogue between government officials and the communities they serve. Sadly, the bold experiment in true community policing embarked upon in 2010 seems of little importance to those responsible for administering the city’s criminal justice system. In this report the Center calls for a “Recommitment to Community Policing Symposium,” co-sponsored by the Center, the Office of the Mayor, the Albany Police Department, the District Attorney’s Office, and the Common Council, to be conducted in the fall of 2020.

For meaningful change to take place, we must understand how we arrived at the current state of affairs. In separate sections, this report examines the individual tenures of the current Mayor, Police Chief, District Attorney, and Common Council President in relation to community policing. At the end of each section, we ask each individual to commit to specific changes to promote more effective and just policing and prosecution in Albany. In the following weeks, the Center will communicate with each of these individuals to ascertain their willingness to commit to these changes. In September 2020, the Center will use their responses as the basis for a “Public Safety Report Card” for each individual, assigning a letter grade of A,B,C,D or F in “subjects” that include commitment to community policing, transparency in policies and practices, frank communication with the public, and responsiveness to calls for change.

Soon after the release of this report, the Center will send each government official a letter asking questions regarding the enumerated statements at the end of each section. In an effort to model transparency, the Center will post each letter on CFLJ’s website one week after it has been sent to the Mayor, the Police Chief, the District Attorney, and the Common Council President. Initial responses to the Center’s inquiries may require that follow-up questions be posed; these, too, will be posted on the Center’s website. CFLJ will post a bi-weekly update regarding each official’s responses and, in September 2020, post a report card for each on the website.
Introduction

In August 2019, the Center for Law and Justice issued “Pathway to Reformative Change: Public Safety, Law Enforcement, and the Albany Community.” The report examined the relationship between the city’s inhabitants and law enforcement officials, and residents’ perceptions of and feelings about public safety. The Center intended the survey to serve as a basis for dialogue between government officials and community members, toward the end of improving police/community relations and building a more equitable criminal justice system in Albany. This current article summarizes community and government responses to the “Pathway” report, and provides a rubric for the Center’s “Public Safety Report Card” to be issued to individual government officials in September 2020. It also lays the foundation for a “Recommitment to Community Policing” Symposium to be conducted by the Center in September 2020.

The findings of the “Pathway” survey suggest that transformative change is needed in Albany’s public safety system. To begin the process of transformative change, a philosophical and practical process dedicated to revolutionary change, the “Pathway” report offered a number of recommendations. Those suggestions are based on the Center’s belief that structural racism is at the core of our community institutions and our social, economic, and legislative policies, and we must come to understand how it is manifested, acknowledge its presence and destructive force, and commit ourselves to destroying it.

The “Pathway” report recommendations for change were enthusiastically embraced by many community members of color. They affirmed that they shared reported concerns about law enforcement racism, abuse and misconduct. Many stated that, had they known about the Center’s survey, they would have recounted their own struggles with structural racism in Albany’s criminal justice system. In contrast, government officials were largely unresponsive to the report upon its release in August 2019.

In the months following the report’s release, government officials remained alarmingly indifferent. Though some dismissed the minority community’s cry for help as “unscientific,” a Times Union editorial rightly noted that “the findings mirror those reported throughout American society, and there’s no reason to believe that a more formal effort would yield much of a different result.” Some government officials, like the Mayor and the Police Chief, acknowledged the existence of structural racism in Albany while simultaneously absolving themselves of any responsibility for change, claiming that structural racism exists all across the country. And still other government officials, like the District Attorney, didn’t respond to the Center at all.

Government officials’ non-response to citizens’ concerns with structural racism in Albany’s criminal justice system cannot stand. In publishing this article, the Center renews its effort to elicit meaningful government responses to structural racism --- responses that acknowledge and respect residents’ concerns. The “Public Safety Report Card” to be issued in September 2020 will assign a letter grade --- A,B,C,D, or F --- to each individual government official, based on his or her responses to information requests from the Center during the spring and summer of 2020.
The Center wishes to avoid any communication problems that may impede community members’ awareness of the Center’s efforts, or constrain government officials from responding to the Center’s requests. Accordingly, during the coming months the Center will post all requests made of government officials on its website (www.cflj.org) one week after each request has been formally made to a government official. After reviewing all responses, the Center will issue a “Public Safety Report Card” for the following individuals: Mayor Kathy Sheehan, Police Chief Eric Hawkins, District Attorney David Soares, and Common Council President Corey Ellis.

**What the Community Needs Now from Its Leaders**

The Albany community of color needs to experience --- not just hear --- a reaffirmation of their government’s commitment to community policing. After nearly a decade of promising progress toward true community policing, the Albany Police Department and the populace it serves appear to be backsliding into a morass of mutual mistrust. Officials’ handling of recent events such as the police shooting of Ellazar Williams and the officer beatings of citizens in the First Street incident embody the current state of affairs. Most frustrating of all is the officials’ dismissive reaction to the public mistrust reported in “Pathway to Reformatory Change: Public Safety, Law Enforcement, and the Albany Community.” Four key actors have the authority and responsibility to restore the public’s faith: Mayor Kathy Sheehan, Police Chief Eric Hawkins, District Attorney David Soares, and Common Council President Corey Ellis.

I. **Mayor Kathy Sheehan**

Kathy Sheehan was sworn in as Mayor of Albany on January 1, 2014. She succeeded Gerald Jennings, who had served for twenty years and whose tenure was fraught with racial tensions between the city’s police department and its minority community. Prior to Jennings’ administration, during the 1990’s the police department had implemented several elements of community policing in response to growing racial unrest. These changes were made under the leadership of John Dale, Albany’s first African American police chief, who was appointed by Jennings’ predecessor, Mayor Tom Whalen. Despite Dale’s efforts, following his retirement in 1995 the deterioration of police/community relations continued well into the 21st century under the administrations of several police chiefs appointed by Jennings.

A decade after Dale’s retirement Mayor Jennings appointed James W. Tuffey as police chief in 2005. Tuffey, former president of the Albany Police Officers Union, had openly criticized the community policing measures implemented during Dale’s administration. After his appointment as Chief, Tuffey slowly replaced the remnants of Dale’s efforts with a decidedly more “law enforcement” approach widely opposed by community activists. Police/community relations withered during Tuffey’s administration, culminating with his early retirement in 2009 after allegedly using a racial epithet.

In September 2009 Mayor Jennings organized a search committee to find a replacement for Tuffey. For the first time in Albany’s history, the Mayor’s choice for police chief would have to be approved by the Common Council. Jennings’ appointment of the search committee’s recommendation, Steven Krokoff, was unanimously approved by the Common Council and he was sworn in as chief in July 2010.
Krokoff was Albany’s Chief of Police when Kathy Sheehan was sworn in as Mayor. After her election in November 2013, Sheehan had asked a number of people, including community activists, to serve as advisors on her transition team. “Public Safety” was one of several areas of interest covered in the transition team’s recommendations. Mayor Sheehan’s Public Safety Sub-Committee was co-chaired by Dr. Alice Green of the Center for Law and Justice, Albany Police Chief Steven Krokoff, former Albany Judge Larry Rosen, and Reverend Dr. Edward B. Smart.

Goals for the Mayor’s administration articulated by the Public Safety Sub-Committee included:

Goal 1: Adopt a city-wide public health and safety approach to drug policy;
Goal 2: Make city law-enforcement policies transparent to the community in order to empower neighborhoods to participate in the creation of public-safety policies; and
Goal 3: All young people in Albany will view law enforcement with less fear and more respect, and as partners in the realization of their own aspirations.

The extent to which these goals are being attained seven years later is reflected in the community’s responses reported in the “Pathway” report, as well as in the report’s recommendations. The objective expressed in Goal 1: “Adopt a city-wide public health and safety approach to drug policy,” was in large part an attempt to reduce the disproportionate representation of minorities among the city’s drug arrests. During Mayor Sheehan’s first term in office, the city’s community policing strategy led to the development and implementation of the collaborative approach to public safety known as LEAD (Law Enforcement Assisted Diversion). Government, business, and community-based organizations joined together to launch LEAD in April 2016. This harm-reduction diversion program’s stated mission is to reduce future criminal behavior related to mental illness, drug involvement, chronic homelessness, and other health and wellness issues in Albany’s neighborhoods.

LEAD has been in operation for nearly four years, but government officials have shared very little information with the public regarding the extent to which the program has reduced disproportionate minority representation in the criminal justice system. Is LEAD truly diverting minorities from arrest, or has it become an alternative to arrest for White drug-involved individuals? According to the “Pathway” report, only 41% of Blacks surveyed were even aware of the program.

Goal #2 of the Mayor’s Public-Safety Sub-Committee stated, “Make city law-enforcement policies transparent to the community in order to empower neighborhoods to participate in the creation of public-safety policies.” The Pathway survey reflected that only 16% of Blacks agree that “The APD makes it easy for ALL community members to provide input.” The Center has long advocated (to little avail) for police policy transparency, especially in the areas of racial profiling and use-of-force. Local public officials have unfailingly retreated to the position that their hands are tied by State laws (particularly Civil Service Law 50-A) that prohibit information sharing with the public.
Goal #3 of the Mayor’s Public-Safety Sub-Committee stated, “All young people in Albany will view law enforcement with less fear and more respect, and as partners in the realization of their own aspirations.” Sadly, the “Pathway” report indicates that only 18% of Blacks agree that the APD effectively practices community policing; 15% agree that the APD is trustworthy; 11% agree that the APD treats ALL people with respect; and 11% agree that the APD develops positive relationships with ALL community members.

To reaffirm the City’s commitment to community policing, Mayor Sheehan must now:

1. acknowledge the existence of structural racism in the police department, as well as her responsibility to address it;
2. deem structural racism a public health crisis in the city of Albany;
3. direct Chief Hawkins to release the Department’s racial profiling and use-of-force policies to the public;
4. direct Chief Hawkins to include racial impact statements\(^1\) on all new or revised departmental policies, and provide annual data reports to the public;
5. appropriately resource and strengthen the LEAD program, and produce annual LEAD reports to the public;
6. send a letter to the Governor and legislators urging repeal of Civil Service Law 50-A; and
7. co-sponsor and personally participate in Albany’s “Recommitment to Community Policing” Symposium to be conducted by the Center for Law and Justice in the fall of 2020.

II. **Police Chief Eric Hawkins**

Eric Hawkins was appointed as Albany’s second African American Police Chief by Mayor Kathy Sheehan on September 7, 2018. Unlike previous police chiefs, Hawkins was not chosen from among the ranks of the Albany Police Department. Prior to his Albany appointment, Hawkins served as police chief in Southfield, Michigan. Unknown in the Capital District, Hawkins had much to prove to both the police department and the community. Said the new Chief upon his appointment: “I am honored to be chosen to lead the men and women of the Albany Police Department. The Albany Police Department has a rich history of working with the community in resolving issues and enhancing safety and security. I look forward to continuing that tradition.”

The “rich history of working with the community” had been established by Hawkins’ two predecessors, Steven Krokoff and Brendan Cox, from 2010 to 2016. Though thoroughly committed to community policing, they both were acutely aware of the tensions a police chief often faces in balancing the demands of the police workforce and the populace it serves. When Chief John Dale had first tried to institute community policing in the 1990’s, he faced vocal criticism from then union chief James Tuffey. When Tuffey became Chief in 2005, he embarked on a debilitating crusade to dismantle community policing and institute a more punitive “law enforcement” approach. In 2008 a bold and daring group of concerned officers (Krokoff and Cox reportedly among them) formed a “Coalition against Racism and Bigotry.” Tuffey was forced to

\(^{1}\) Attachment A provides a description of racial impact statements.
retire in ignominy when the coalition alleged that, referring to the murder of a White UAlbany student, Tuffey remarked, “This wasn’t just some spook that was killed.”

Following Tuffey’s retirement, Mayor Jerry Jennings appointed a committee to conduct a nationwide search for a new chief, including CFLJ’s Executive Director on the committee. After an extensive and rigorous search process, the committee recommended Steven Krokoff. In interviews with officials and meetings with the community during the search process, Krokoff had voiced a clear, forceful commitment to community policing, the desire for which was just as clearly and forcefully conveyed by the community during the search process.

After assuming office in 2010, Chief Krokoff implemented several structural changes, training programs, and public communication efforts to promote community policing in Albany. After his departure in 2015 to take a position closer to family in another part of the country, Krokoff was succeeded by Brendan Cox. Chief Cox continued the community policing efforts, including the establishment of the LEAD program, until his departure for a position with a national law enforcement organization in 2016.

Following the service of Acting Chief Robert Sears, in 2018 Eric Hawkins was selected to serve as Albany’s police chief. In the short time he has been with the Albany Police Department, Hawkins’ mettle has been tested by three major incidents. The first incident, in which APD Detective James Olsen shot resident Ellazar Williams in the back and paralyzed him, occurred two weeks before Hawkins took office. The second (often referred to as “the First Street incident”), in which police severely beat residents of a home to which they had been called for a noise complaint, occurred about six months into Hawkins’ tenure. The third incident, in which police forcibly pulled a woman from her car and hit her several times, took place about a year into Hawkins’ service. The victims were all minorities, and all three incidents were captured on video.

Unfortunately, the new chief has failed to respond to the community’s outrage as empathetically and effectively as did Krokoff and Cox. For all three troubling incidents, Hawkins has displayed a decided lack of responsiveness, transparency, and candor in addressing residents’ concerns. The Department refuses to share its racial profiling and use-of-force policies with the public. It has yet to release reports regarding the internal investigations of the three incidents, and hides behind Civil Service Law 50-A when asked to provide use-of-force reports or officer body cam footage. Though incriminating video of the First Street incident justifiably resulted in criminal and disciplinary charges against officers, the Department has yet to produce the report it promised to release by February 16, 2020.

At a community meeting after a police department investigation had cleared Officer Olsen of any wrongdoing in shooting Ellazar Williams in the back, Hawkins remarked:

“I heard you very clear, and I don’t want anything to be misinterpreted as me being insensitive to anybody, I stand by what I said. It’s very, very important that we continue to see both sides. An officer needs to hear what the community is saying and the frustration and the pain, but also the community needs to hear about the challenges and frustrations and some of the things my officers are going through as well.”
Hawkins has repeatedly asserted the importance of *listening* to community concerns, but many in the community perceive him to be more interested in *acting* on police union concerns. Albany Police Officer Union President Gregory McGee sang Hawkins’ praises in September 2019: “He’s been phenomenal. He’s working out great with us.” Albany residents would love to be able to say of their Police Chief, “He’s been phenomenal. He’s working out great with us.”

To the contrary, the minority community’s experience under Hawkins’ leadership has been disheartening. Only 18% of Blacks agree that the APD effectively practices community policing; 15% agree that the APD is trustworthy; 11% agree that the APD treats ALL people with respect; and 11% agree that the APD develops positive relationships with ALL community members.

Only 41% of Blacks are aware of the existence of LEAD. Though dedicated line officers continue to administer LEAD to the best of their abilities given their resources, Hawkins’ has displayed a decided lack of leadership regarding the program that held out such promise for reducing minority drug offense arrests. No reports on the LEAD program have been issued since 2017. The 2020 APD Prospectus, “Preparing for Our Future,” does not even *mention* LEAD, except for an incidental reference to training and a statement that the data set for the program will be available on the APD Data Portal “at a later date.” (It is not there as of the writing of this report.)

There has been only one LEAD annual report, and there has been no outcome evaluation. The most recent summary data available for LEAD on the APD website indicate that between April 1, 2016 and August 31, 2019 there were 195 cases diverted into LEAD in lieu of arrest. Of those, 117 (60%) were White. In contrast, from the “APD Arrests Dataset by Neighborhood” available on the Albany Data Portal for the year preceding February 25, 2020, 25% of the total arrests for the year were White. Given that 60% of LEAD diversions are White while only 25% of arrests are White, in the absence of any other LEAD data produced by the Department it would appear that LEAD is *not at all effective* in reducing the disproportionate representation of minorities in the criminal justice system.

These findings suggest that more than just *listening* is called for; the community needs *action* from the leadership of the APD. Chief Hawkins can no longer pay *respect* to police union concerns while paying only *lip service* to the community’s concerns. The Chief must commit to:

1. acknowledging the existence of structural racism in the police department, as well as his responsibility to address it;
2. having State officials investigate all police shootings;
3. releasing the Department’s racial profiling and use-of-force policies to the public;
4. including racial impact statements on all new or revised departmental policies;
5. sending a letter to the Governor and legislators urging repeal of Civil Service Law 50-A;
6. appropriately resourcing and strengthening the LEAD program, and producing annual LEAD reports to the public;

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2 Police union statements may not reflect the views of all officers. Since the publication of the “Pathway” report, the Center has been made aware of frictions within the ranks of the APD, including assertions of racial bias in awarding promotions.
7. producing an annual departmental data report to the public;
8. seeking a Civil Rights History curriculum for department-wide training; and
9. co-sponsoring and personally participating in Albany’s “Recommitment to Community Policing” Symposium to be conducted by the Center for Law and Justice in the fall of 2020.

III. District Attorney David Soares

David Soares took office in 2005, having prevailed in both the primary and general elections the previous year. Social justice advocacy organizations helped propel him into office; during his campaign Soares had vowed to address racial disparities created by the Rockefeller Drug Laws and pursue a more progressive approach to criminal justice. However, during the fifteen years since that election, Albany’s first African American District Attorney has gained a reputation as a rather traditional prosecutor. Soares has been characterized as a regressive prosecutor whose office supports a system of mass incarceration and institutional bias.

The 2019 “Pathway” report summarizes the Albany minority community’s perceptions of the District Attorney’s office. Only 18% of Blacks agree that “The District Attorney’s Office is trustworthy;” 14% agree that “The District Attorney handles cases in a fair manner;” 9% agree that “The District Attorney’s Office makes it easy for community members to provide input;” and 13% agree that “The District Attorney’s Office always acts to promote public safety.” Residents’ responses in the qualitative section of the “Pathway” survey indicate that their opinions were influenced by the way Soares handled a number of relatively recent incidents involving Albany African Americans, including the police shooting of Ellazar Williams.

It appears that the District Attorney is highly successful in securing an indictment and conviction with draconian consequences when the accused is African American, but has trouble convincing a grand jury that a crime has occurred when the victim is African American and the accused is a law enforcement official. In 2016, an appeals court unanimously reversed the conviction of Marquis Dixon, an Albany African American who had been prosecuted by Soares’ office for the theft of a pair of sneakers in 2014 (when he was sixteen). Denied youthful offender status, Dixon was sentenced to nine years in state prison. The Appellate Division of State Supreme Court, Third Department ruled Dixon was wrongly denied an opportunity for youthful offender status, and included Soares’ office among those it deemed responsible for a “grievous error” that “cries out for resolution.” The appeals court granted Dixon youthful offender status and reduced his sentence from nine years, to 1 to 3 years.

Contrastingly, in 2015 District Attorney Soares’ office was unsuccessful in convincing a grand jury to return an indictment against Albany Police Department officers responsible for the death of Dontay Ivy, an unarmed mentally ill African American who died while in police custody. Ivy was hit with batons and shocked repeatedly with a Taser, and suffered a heart attack while handcuffed and shackled face-down on the pavement. After Soares’ grand jury presentation of the case against the officers resulted in no charges being filed, representatives of 26 African American religious groups called on the Governor, the state Legislature and the Attorney General to review the decision; they asked if "justice was denied" in the decision to clear the officers
involved in Ivy’s death. In 2018 the city of Albany agreed to pay Ivy’s family $625,000, settling a wrongful death suit that alleged negligence, excessive force and racial profiling.

Most troubling has been Soares’ deceitful handling of the investigation of APD Detective James Olsen’s shooting of Ellazar Williams, an Albany African American. In August 2018, Williams was pursued into a courtyard by Olsen and other police officers. Olsen shot Williams, claiming that Williams had a gun and had charged at the police. Williams, paralyzed from the chest down as a result of the shooting, was charged with menacing a police officer and weapons possession. A hunting knife, but no gun, was found at the scene. Footage from a surveillance camera in the area showed that Williams was actually running away from Detective Olsen when he was shot.

As the APD investigated the shooting, several members of the community called upon Soares to recuse himself from the Olsen prosecution and have a judge appoint a special prosecutor. A clear conflict of interest existed, for two reasons. First, as stated by the Center’s Executive Director in a letter to Soares, “Your office cannot simultaneously prosecute and investigate Mr. Williams and Detective Olsen as defendants, or potential defendants, and then advocate for them as crime victims, arising from the same event.” Second, it was expected that Detective Olsen would testify as a witness for Soares’ office in an unrelated murder trial. A Times Union editorial asked the cogent question, “How could Soares’ office objectively investigate Olsen when it had a reasonable expectation it would need Olsen as a credible witness in a future murder trial?”

Soares declined to recuse himself. The rationale his office gave for the non-recusal was the bizarre assertion that to appoint a special prosecutor would deny Detective Olsen the presumption of innocence. Said one prominent defense attorney, “What an insult to everyone’s intelligence.” In prosecuting both the Olsen shooting and the charges against Williams, Soares chose to bring Olsen’s case to the grand jury prior to resolution of the charges against Williams. Williams, upon advice from his attorney, declined to be interviewed by police while charges were still pending against him. The case against Olsen that went to the grand jury thus did not include Williams’ account of the events that transpired the night he was shot.

Soares announced in December 2018 that the grand jury had cleared Olsen of all charges. The prosecutor told reporters at a press conference that the camera system that captured surveillance video of Williams being shot while running away from Olsen, had issues. In the words of that prominent defense attorney, “They said, ‘Who you going to believe --- us, or your lying eyes?’” In a complete and utter disregard for transparency, officials have refused to release to the community a written investigation report that includes all surveillance camera videos, dashcam videos, and audio recordings.

In response to the ensuing public outcry and clamor for more information on police use of force, Soares wrote in a letter to the Center on January 28, 2019, “Thank you for inquiring about my public presentation on police use of force.” He stated that he would “be making an announcement regarding the aforementioned subject in the near future.” February 2019 came and went without any such announcement. In mid-March 2019 a spokesperson for the District Attorney said, “Our office looks forward to the continued conversation about use of force and the
The evolving role of transparency for prosecutors in the criminal justice system.” Today, a year after that announcement, there has yet to be a District Attorney presentation regarding police use of force.

The District Attorney did recently announce public meetings to take place in March 2020, titled “Criminal Justice Reform in New York.” According to the Times Union, the DA will “speak about bail reform, speedy trial charges and available options for the sealing of past criminal convictions.” However, there is no indication that police use of force, the topic that Soares promised to discuss, will be included in these meetings. Instead, it appears that the District Attorney will substitute what he believes the community should hear for what they have actually said they want to hear.

It is not difficult to understand why only 14% of the “Pathway” Black respondents believe that the District Attorney handles cases in a fair manner; 18% agree that the District Attorney’s Office is trustworthy; and 9% agree that the District Attorney’s Office makes it easy for community members to provide input. These findings apparently do not concern the District Attorney; his office has yet to reply to the Center’s request for a response to the “Pathway” report.

To help alleviate structural racism in Albany Public Safety, the District Attorney must:

1. acknowledge the existence of structural racism in the police department, as well as his responsibility to address it through responsive and transparent prosecution of police misconduct;
2. commit to recusing himself from the prosecution of APD shootings and other misconduct, when appropriate;
3. release to the public the demographic composition of the Office of the District Attorney;
4. send a letter to the Governor and legislators urging repeal of Civil Service Law 50-A; and
5. co-sponsor and personally participate in Albany’s “Recommitment to Community Policing” Symposium to be conducted by the Center for Law and Justice in the fall of 2020.

IV. Albany Common Council President Corey Ellis

Of all government officials asked by the Center to comment on the “Pathway” report, Common Council representatives have been the most responsive. Common Council President Corey Ellis spoke at length with CFLJ’s Executive Director, both in person at the Center and by phone. The Chair of the Council’s Public Safety Committee at the time of the “Pathway” release, Dorcey Applyrs, also reached out to the Center. Ellis and Applyrs both found the report helpful in considering changes needed to address structural racism. After Applyrs left the Common Council her successor as Public Safety Chair, Kelly Kimbrough, also expressed interest in using the “Pathway” report to implement meaningful change.

Ellis spoke of the need for changes to the Albany Community Policing Advisory Committee, or ACPAC. The committee was formed in 2009 when community policing was re-
instated by the APD following the retirement of Chief James Tuffey. ACPAC was charged with reviewing and addressing items that would reinvigorate the relationship between community residents and the APD. It is comprised of twenty-five members. Each of the City’s fifteen wards has a representative; the Mayor and the Common Council President each appoint a member; the Police Chief appoints four members; and up to four members are appointed by a sub-committee of ACPAC members. Among the most important functions of ACPAC is developing APD policy and initiatives that reflect the concerns of the community. The usual process is that the APD creates a draft policy and ACPAC advises the department regarding how the policy can better address community concerns.

In its decade of existence ACPAC has had spotty success in influencing APD policy, due in part to ACPAC’s structure and in part to the APD’s lack of transparency regarding some critical policies. Many ACPAC positions remain vacant for long periods of time (they are unpaid positions), calling into question the representativeness of the committee. When the committee meets to discuss issues, the unwieldy size of the group often precludes resolving issues in the meeting time allotted.

In his discussions with the Center regarding the “Pathway” report, Ellis expressed frustration that ACPAC is currently not an official organization but is merely advisory; he would like to ensure that ACPAC’s role is more explicitly defined. In 2019, new ACPAC bylaws presented to the Common Council outlined the number of members, expectations and functions. Additionally, ACPAC is creating subcommittees to more effectively facilitate discussions of key issues. One focus will be on evaluating the police department’s community policing strategies.

Also in 2019, the Common Council adopted an “Equity Agenda” to, in the words of the city ordinance, “focus on achieving equity across all communities and ending the injustices caused by institutional and systemic racism and discrimination.” With this new ordinance, the Common Council seeks to more actively oversee and assist City Departments to end inequities.

The Center suggests that the goals of the Equity Agenda be applied to the bylaws of ACPAC, to ensure that this community group has all the information it needs from the APD to exercise meaningful oversight of the Department. This means that ACPAC must be consulted on all APD policies --- including racial profiling and the release of body cam footage.

Ellis also vowed to the Center that he would explore the role of the Human Rights Commission in police/community relations, but has not yet delivered on this promise. While the Center appreciates the genuine interest of the Common Council President and the Public Safety Committee Chair in addressing structural racism in Albany public safety, the Council must take a more directive role in ensuring effective oversight of the APD. To help alleviate structural racism in Albany public safety, the Common Council President must:

1. acknowledge the existence of structural racism in the police department, as well as his responsibility to address it through city ordinances that establish ACPAC as a meaningful APD oversight committee;
2. include in ACPAC’s bylaws a requirement that all APD policies must be subject to ACPAC review;
3. include in ACPAC’s bylaws a requirement that every new APD policy must be accompanied by a racial impact statement;
4. through his representative on ACPAC, encourage ACPAC to require annual data reports for the APD as a whole, and annual data reports for the LEAD program;
5. have the Common Council pass a resolution stating the need for repeal of Civil Service Law 50-A;
6. send a letter to the Governor and legislators advising them of the Council’s resolution urging repeal of Civil Service Law 50-A; and
7. co-sponsor and personally participate in Albany’s “Recommitment to Community Policing” Symposium to be conducted by the Center for Law and Justice in the fall of 2020.

The Public Safety Report Card

Having outlined what the community needs now from its Mayor, Police Chief, District Attorney, and Common Council President, during the coming months the Center will assess their willingness to respond to the community. Each official will receive a letter asking for responses to pertinent issues; one week after those letters have been sent, they will be posted on CFLJ’s website. Follow-up inquiries may become necessary, and all such inquiries will be posted on the website. The Center will post bi-weekly summaries of the responses received to date. In September the Center will issue a report card for each official; a sample public safety report card is provided in Attachment B.
Attachment A: Racial Impact Statement Description

The Center for Law and Justice has called for a racial impact statement to accompany all newly implemented Albany Police Department policies. The purpose of applying racial impact statements to proposed policies is to avoid inadvertently exacerbating the disproportionate representation of minorities in the criminal justice system. The racial impact statement should reveal that the proposed policy is at worst race-neutral, and at best works to reduce the disproportionate representation of minorities in the criminal justice system. Before the proposed policy is implemented, a projected racial impact analysis should be conducted using expected numbers. Each year subsequent to the implementation, an actual racial impact analysis using real numbers should be conducted to evaluate the policy’s impact.

As an example, in December 2013 the Albany Police Department announced a new policy regarding strip searches. “Under a new policy drafted by the Albany Police Department, the requirements for police to justify a strip-search will be stricter, and strip-searching people in their home or business will be prohibited except in emergencies.” (Albany Times Union, 12/03/13). The announcement of the new policy was hailed by the community, with a Times Union Perspective piece stating, “These are the kinds of smart, sensitive policies that people have long had in mind when talking about community policing. They can keep an evolving relationship between Albany’s police and its citizens moving in the right direction, without imperiling public safety.” (Albany Times Union, 12/09/13).

According to the Times Union, the new policy makes two major changes in police practice: “strip-searching people in their home or business will be prohibited except in emergencies;” and “if police deem it necessary to have a suspect remove his or her clothing, there are two requirements needed to proceed: the person must be under arrest, and the police must have reasonable suspicion to believe contraband is hidden on the person.” (Albany Times Union, 12/03/13).

Though the intent of the policy is to reduce the number of strip searches, the new policy could conceivably result in an increase in the number of people arrested. And, if strip searches are more likely to be conducted in minority neighborhoods, the new policy may result in exacerbating the disproportionate numbers of minorities arrested in Albany.

In 2010, Albany’s general population was 54% white and 46% minority. In that same year, arrests made in Albany were 29% white and 71% minority. Suppose for the sake of demonstration, that in the year immediately preceding the new strip-search policy’s implementation there were an equal number of strip searches for unarrested and arrested individuals. For simplicity’s sake, suppose further that 100 unarrested individuals were searched, and 100 arrested individuals were searched. The initial projected racial impact analysis might look like this:
Under this favorable projected racial impact analysis, the policy change results in 5 fewer white unarrested individuals being strip searched, and 46 fewer minority unarrested individuals being strip searched. Minority representation among strip searches of unarrested individuals drops from 71% to 50% --- much closer to minorities’ 46% representation in the general population in 2010.

Suppose further that after one year of implementation, the projected racial impact analysis proves accurate and disproportionate representation of minorities among unarrested individuals who are strip searched is reduced. However, when examining the figures for arrested individuals who are strip searched after the policy’s implementation, the following table results:

<table>
<thead>
<tr>
<th></th>
<th>PROJECTED STRIP SEARCHES AMONG UNARRESTED INDIVIDUALS</th>
<th>ACTUAL STRIP SEARCHES AMONG ARRESTED INDIVIDUALS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Before new policy</td>
<td>Following new policy</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>Minority</td>
<td>71</td>
<td>71%</td>
</tr>
<tr>
<td>White</td>
<td>29</td>
<td>29%</td>
</tr>
<tr>
<td>All strip searches of unarrested individuals</td>
<td>100</td>
<td>100%</td>
</tr>
</tbody>
</table>

Under this actual racial impact analysis, the policy change results in 5 fewer white people arrested and strip searched, but an additional 46 minority individuals arrested and strip searched. Minority representation among strip searches of arrested individuals rises from 71% to 83% --- much higher than minorities’ representation in the general population in Albany in 2010 (46%). It appears that the policy has not reduced the numbers of minorities who are strip searched at all --- it has simply shifted them from the “unarrested” category to the “arrested” category.
PUBLIC SAFETY REPORT CARD

Name: John Doe
Position: Director of Public Safety
Appointment Date: January 31, 2015
Immediate Predecessor: Jane Q. Public

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>GRADE</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>transparency in policies and practices</td>
<td>C</td>
<td>racial profiling policy not released</td>
</tr>
<tr>
<td>communication with the public</td>
<td>B</td>
<td>inconsistent</td>
</tr>
<tr>
<td>responsiveness to community needs</td>
<td>B</td>
<td>tries but sometimes falls short</td>
</tr>
<tr>
<td>commitment to community policing</td>
<td>C</td>
<td>erratic</td>
</tr>
<tr>
<td>knowledge of cultural competency</td>
<td>A</td>
<td>has taught the subject</td>
</tr>
<tr>
<td>awareness of structural racism</td>
<td>B</td>
<td>not always evident</td>
</tr>
</tbody>
</table>

Remarks

When Director Doe was first hired to be Albany's Director of Public Safety, he expressed a strong commitment to community policing. Five years into the job, it is clear that there is need for much improvement. Tensions between the community and the criminal justice system have been mishandled, due in large part to Director Doe's unwillingness to share information with the public. Though he is well-versed in the subjects of cultural competency and structural racism, his "real-life" application of the concepts leaves much to be desired. To improve his grades over the next reporting period, Director Doe needs to publicly release all department policies and practices; share all investigation reports with the community; and conduct an assessment of the current state of community policing in Albany.
Celebrating Our 35th Year
1985-2020

Staff:
Seated: Alice Green
L-R: Mary Ellen Frieberg, Immanuel Sturdivant, Lauren Manning, Schyla Silburn, Darryl Johnson (Not Shown)

Collaborators:
Albany Medical College, Albany College of Pharmacy and Health Sciences, Legal Aid (Albany), Siena College, University at Albany