

**CITY COUNCIL  
SPECIAL MEETING NOTICE AND AGENDA**

**Thursday, August 20, 2020  
6:30 p.m.**

On March 3, 2020 Governor Newsom proclaimed a State of Emergency due to COVID-19 and subsequently issued Executive Orders N-25-20 suspending provisions of the Brown Act allowing meetings via teleconferencing and members of the public to observe and offer comments telephonically or electronically.

- The virtual meeting will be broadcast live on Channel 29 and at <https://www.tri-valleytv.org> and <https://www.youtube.com/user/TheCityofPleasanton>.
- Join the Zoom meeting at <https://cityofpleasanton.zoom.us/j/99790529415>
- To join by phone dial: 1 (669) 900 6833 - Webinar ID: 997 9052 9415

If you wish to speak on an item listed on this agenda, please complete and submit a speaker card [here](https://forms.cityofpleasantonca.gov/f/SpeakerCard) or at <https://forms.cityofpleasantonca.gov/f/SpeakerCard> by 7:30 p.m. the day of the meeting, August 20, 2020.

**NOTICE IS HEREBY GIVEN**, pursuant to section 54956 of the California Government Code, a special meeting of the City Council of the City of Pleasanton is hereby called as follows.

**CALL TO ORDER**

- Pledge of Allegiance
- Roll Call

**1. CONSIDER APPROVAL OF THE DEVELOPMENT OF AN ALTERNATE MENTAL HEALTH RESPONSE PROGRAM AND RECOMMENDATIONS ON POLICE DEPARTMENT USE OF FORCE POLICIES**

**PUBLIC COMMENT** – *Comments are limited to three minutes and to only the item listed on this agenda.*

**ADJOURNMENT**

Dated: August 18, 2020

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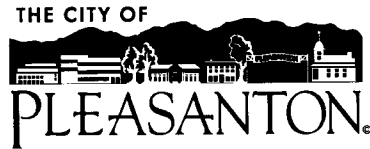
**NOTICE**

Under Government Code §54957.5, any writings/documents regarding an open session item on this agenda provided to a majority of the City Council after distribution of the agenda packet will be available for public inspection by emailing the City Clerk' Office at [pleasantoncityclerk@cityofpleasantonca.gov](mailto:pleasantoncityclerk@cityofpleasantonca.gov).

**ACCESSIBLE PUBLIC MEETINGS**

The City of Pleasanton can provide special assistance for persons with disabilities to participate in public meetings. To make a request for a disability-related modification or accommodation (e.g., an assistive listening device), please contact the City Clerk's Office at [pleasantoncityclerk@cityofpleasantonca.gov](mailto:pleasantoncityclerk@cityofpleasantonca.gov) or (925) 931-5027 at the earliest possible time. If you need sign language assistance, please provide at least two working days' notice prior to the meeting date.

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## CITY COUNCIL AGENDA REPORT

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August 20, 2020  
Police

**TITLE: CONSIDER APPROVAL OF THE DEVELOPMENT OF AN ALTERNATE MENTAL HEALTH RESPONSE PROGRAM AND RECOMMENDATIONS ON POLICE DEPARTMENT USE OF FORCE POLICIES**

### **SUMMARY**

The City Council requested a review of key existing department use of force policies as well as a review of the police budget, calls for service, mental health response, organizational operations, and how the department ensures the high standards required by staff, community and profession. This report will provide an overview of each of those areas and recommendations to strengthen the department's response.

### **STAFF RECOMMENDATION**

1. Direct staff to return with an alternate mental health response model.
2. Approve staff recommendations on use of force policy changes.

### **FINANCIAL STATEMENT**

Accepting the report and providing direction does not create immediate impacts to the City's operating budget. It is possible that future City-approved policies, including expanded training and development for the police department, new community programs and initiatives, and augmented staffing resources to address mental health crisis intervention could impact the City's future operating and capital budgets. These would be addressed through subsequent actions of the City Council, including adoption of the City's work plan and future operating and capital budgets.

## BACKGROUND

Following the death of George Floyd, the community of Pleasanton gathered to voice its opposition to police brutality at a protest and rally on June 5, and also at City Council meetings and listening sessions on July 14 and 21. Some of the themes heard from the community at those listening sessions include overall support for the Pleasanton Police Department, a desire to find an alternate response for those in mental crisis, interest in increased transparency through oversight and frequent policy review, and a desire to understand the perceptions of the department from those whom have experienced its service.

## DISCUSSION

This report will provide information on multiple aspects of policing to include the budget, calls for service, alternate mental health response models, and a review of policies related to eight key areas of force options.

### Budget

The Pleasanton Police Department is budgeted for 118.5 full-time equivalent positions. Eighty-three peace officers and 35.5 professional support positions (public safety dispatchers, records personnel, animal control officer and community service officers, and others). The City has a five-beat system for deployment of personnel to ensure average response time goals of under 4:00 minutes for emergency calls and under 20:00 minutes for non-emergency calls. Policing is a human services profession that provides safety services 8,760 hours a year. The average full-time employee works 2,080 hours (non-over-time) per year. Five full-time equivalent (FTE) employees are required to staff one beat for the entire year. Additional officers are required for vacation relief, peak call periods, training, and other demands. Service and staffing demands result in personnel costs that represent 89% or \$25,287,998 of the \$28,427,946 police department budget and why the police department budget is larger than many other departmental budgets.

The annual police department budget is separated by division or working group. This report provides divisional budgets (Table 1) as well as program budgets for DARE, School Resource Officers (Table 2), and Homeless Outreach Team (Table 3).

Table 1

	<b>OVERALL POLICE BUDGET</b>			
	<b>FY 2019/20 Actual Unaudited</b>			
	<b>Personnel</b>	<b>Non-labor</b>	<b>Total Budget</b>	<b>Total FTE</b>
ADMINISTRATION	1,903,118	1,060,904	2,964,022	8.5
SUPPORT SERVICES	3,122,988	164,613	3,287,601	18.5
OPERATIONS	12,076,155	1,133,895	13,210,050	57.5
INVESTIGATIONS	5,564,660	243,034	5,807,694	24
TRAFFIC UNIT	2,479,518	351,182	2,830,700	9
ANIMAL SERVICES UNIT	141,559	186,321	327,879	1
<b>Totals</b>	<b>\$25,287,998</b>	<b>\$3,139,949</b>	<b>\$28,427,946</b>	<b>118.5</b>

Table 1

**FY 2020/21 Mid-term**

	<b>Personnel</b>	<b>Non-labor</b>	<b>Total Budget</b>	<b>Total FTE</b>
ADMINISTRATION	2,030,292	1,160,396	3,190,688	8.5
SUPPORT SERVICES	3,536,261	140,000	3,676,261	18.5
OPERATIONS	13,222,584	574,585	13,797,169	57.5
INVESTIGATIONS	6,429,822	283,250	6,713,072	24
TRAFFIC UNIT	2,398,656	493,791	2,892,447	9
ANIMAL SERVICES UNIT	155,808	225,087	380,895	1
<b>Totals</b>	<b>\$27,773,422</b>	<b>\$2,877,109</b>	<b>\$30,650,531</b>	<b>118.5</b>

**School Resource Officers and DARE Programs**

The City of Pleasanton has a rich tradition of partnership with the Pleasanton Unified School District (PUSD). This partnership has taken many forms through the years and has provided four peace officer positions on the multiple K-12 campuses to enhance school safety, strengthen the relationship between youth and law enforcement, and enhance education centered on making better life decisions in the present and future. In mid-2019, the police department reviewed the schedule of the officers assigned to DARE and found an opportunity to reconfigure the schedule so that only one DARE officer was required, reducing DARE program expenses accordingly. The program expenses below include time invested by officers and the unit supervisor and are based on the adopted FY 2020/21 budget.

Table 2

**DARE PROGRAM BUDGET  
FY 20/21**

	<b>Personnel</b>	<b>Non-labor</b>	<b>Total Budget</b>	<b>Total FTE</b>
DARE	\$241,994	\$49,301	\$291,295	1.25

**SCHOOL RESOURCE OFFICER PROGRAM BUDGET  
FY 20/21**

	<b>Personnel</b>	<b>Non-labor</b>	<b>Total Budget</b>	<b>Total FTE</b>
SRO	\$420,211	\$55,222	\$475,433	2.25

The DARE Program began in Pleasanton in 1989. The current program consists of ten weeks of instruction to fifth graders in the city's nine elementary schools. Classroom topics evolve with trends and currently include: the effects of using tobacco and alcohol, resisting peer pressure, confident communication, effective listening skills, dealing with stress and internet safety. In addition to the core instruction, DARE officers spend time with students on campus playing games at lunch and recess, participate in field trips, and instruct a four-day drug awareness program to eight graders at each of Pleasanton's three middle schools.

School Resource Officers (SROs) are assigned to high schools and work in collaboration with school officials to facilitate and enhance campus safety. They investigate threats on or to the school grounds, crimes on campus and act as a liaison between school officials and the police department. The officers also engage with students in non-enforcement situations; this fosters the building of lasting relationships by deconstructing barriers between youth and law enforcement in the spirit of community policing. The addition of the SROs has off-set the impact to patrol officers who would otherwise be handling the routine crime-related calls.

Between 2015 and 2019, the Pleasanton Police Department responded to an average of 1,089 calls for service at Pleasanton schools annually and authored an average of 229 police reports each year at these schools. Dedicated officers for school-related calls provide a prioritized response to campuses during school hours of operation; this allows patrol officers to focus on improving their response times to other calls. The program also provides consistency to the schools by having the same officers respond and be available for follow-up with campus-related issues. SROs and DARE officers are familiar with school staff, district protocols and current campus issues; they also receive specialized training on topics related to campus security, juvenile law and family issues.

When school is not in session, these officers are redeployed to special enforcement activities. They are also utilized in summer months to augment the department's efforts toward investigative follow-up, burglary suppression, additional patrols, and to backfill vacation leave.

**Homeless Outreach Team**

In 2019 the City of Pleasanton formed a multi-disciplinary Homeless Outreach Team (HOT) to identify needs and coordinate services for those who are unhoused. The team was originally formed as an additional assignment for multiple officers in the police department with representatives from Housing, Code Enforcement, Police, Human Services and several community-based organizations. The police department found that not having staff dedicated to this work made coordination difficult and that an increasing unhoused population and community priority required a more consistent response. In January 2020, the police department dedicated two full-time officers to help coordinate our response for the unhoused. The two officers assigned to the HOT team have received extensive training in crisis intervention, behavioral health and intervention strategies for the unhoused. The HOT team regularly collaborates with Alameda County Behavioral Health to provide services for those in need. The program expenses below include time invested by officers and the unit supervisor and are based on the adopted FY 2020/21 budget.

Table 3

	<b>HOMELESS OUTREACH TEAM PROGRAM BUDGET FY 2020/21</b>			
	<b>Personnel</b>	<b>Non-labor</b>	<b>Total Budget</b>	<b>Total FTE</b>
Homeless Outreach	\$531,482	\$80,094	\$611,576	2.4

## **Training**

The City of Pleasanton prioritizes training through its investment of resources to ensure that police employees remain up to date on professional best practices. This occurs through six dedicated training days for continuous professional training, on-going specialized training based on assignment, and individualized training for career development and succession planning. Most training occurs using on-duty personnel or through a schedule adjustment; when a schedule adjustment is not possible due to staffing reasons, the employee is compensated with overtime per state labor law.

The non-labor cost for training in FY 2019/20 was \$341,761 which includes supplies, equipment, food and accommodations for training out of the area. Training is divided into three categories – In-house training, Peace Officer Standards and Training (POST) Sponsored training and Non-POST Sponsored training:

- In-house training    \$98,071
  - In-house training consists of a variety of topics to include De-escalation, Force Options, Principled Policing, First-Aid/CPR, Implicit Bias, Emergency Vehicle Operations, Firearms and others.
  
- POST Sponsored training    \$94,965
  - POST sponsored training are courses that have been certified by POST and are mostly position specific or are POST requirements. Examples of most frequently attended POST training include Crisis Intervention Training, Patrol Rifle, Women Leaders in Law Enforcement, Mindfulness and Resiliency for Public Safety, and the Public Records Act.
  
- Non-POST Sponsored training    \$148,995
  - Non-POST sponsored training are courses that have either not been certified by POST or are not law enforcement specific. The most frequent non-POST sponsored courses are Gun Violence Restraining Orders, Law Enforcement Family Resiliency Conference, Mental Resiliency for First Responders, AXON Redaction Training, Civilian Leadership, and Human Trafficking Investigations and Prosecution.

## **Calls for Service**

The police department responds to or initiates an average of 65,965 calls for service each year. Of these, 38,038 are requests for service from the community and 28,127 are initiated by department members such as peace officers, community service officers or animal service officers. The police department prides itself on consistently achieving a key Council performance measure by maintaining a response time of under 4:00 minutes for emergency calls and under 20:00 minutes for non-emergency calls. As mentioned earlier, officers are strategically assigned to various parts of the city based on a five-beat system; this allows officers to respond promptly to the scene. Table 4 illustrates the most frequent calls with self-initiated actions occupying the top three of six areas.

<b>Table 4 CALLS FOR SERVICE DESCRIPTION</b>	<b>5-year Average (Annualized)</b>
TRAFFIC STOP	13,572
PATROL CHECK	4,531
SUSPICIOUS VEHICLE	2,688
ALARM	2,456
PARKING COMPLAINT	1,872
PEDESTRIAN STOP	1,562
DISTURBANCE	1,536
ANIMAL CALL	1,393
WELFARE CHECK	1,338
SUSPICIOUS PERSON	1,248

### **Alternate Mental Health Response Program**

In response to the Council's and community's interest in developing an alternate response program for those in mental crisis, police department staff reviewed types and volume of calls where professionals other than peace officers may be able to respond. The types of calls were identified based on a successful program in Eugene, Oregon called Crisis Assistance Helping Out on the Streets (CAHOOTS). A program similar to CAHOOTS is currently under a pilot implementation in the cities of Oakland, Hayward and Fremont, Alameda County is evaluating the efficacy of the program for countywide implementation. The call types included in the CAHOOTS response are arguments, welfare checks, suicidal ideation, public intoxication, non-criminal juvenile matters, and civil standby. In addition to these call types, a similar model may also include non-emergency medical calls, though those calls are not included below. One of the considerations still to be determined is who would respond to the community needs based on legal authority, time of day, and safety of those responding.

Another agency with an alternate response model is the City of San Diego. San Diego has a Psychiatric Emergency Response Team (PERT) that pairs a clinician with a police officer to respond to calls for service for those in a behavioral health crisis. In this model, the officer and clinician drive an unmarked vehicle and the officer is generally not in uniform, though the officer has the full complement of safety equipment on his/her person if needed. Santa Clara County is currently undergoing a pilot of this program in different parts of the County.

Other model programs include officers in uniform with a clinician in the passenger seat driving marked police vehicles and responding to mental health calls in addition to other responsibilities.

It is important to recognize that reducing the number of calls responded to by a police officer through an alternate mental health response model does not translate to corresponding reduction in the need for officers. Many of the calls indicated in Table 5 are non-emergency in nature, meaning that a reduction of officers on patrol would affect our emergency and non-emergency response times. Furthermore, the analysis below

was conducted by call type only and did not example the details of the call, meaning that some of the calls involve circumstances that require an officer to respond.

Based on strong community feedback and interest of the police department, staff has had preliminary conversations with Alameda County Behavioral Health and others to explore an alternate response concept.

<b>CFS TYPE</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Average</b>
Argument/Disturbance	1766	1764	1668	1705	1780	1736.6
Welfare Check	1126	1288	1479	1673	1545	1422.2
Suicidal Ideations	425	460	487	476	423	454
Drunk in Public	395	373	404	372	354	379
Juvenile Problem	308	284	381	233	312	304
Civil Standby	72	73	103	96	124	94
Suicide Attempt	35	24	45	39	28	34
Education Code	1	2	3	0	2	2
<b>Total</b>	<b>2892</b>	<b>3052</b>	<b>3147</b>	<b>3378</b>	<b>3325</b>	<b>3158.8</b>

### **USE OF FORCE POLICIES**

This section of the report provides an analysis of the police department’s policy compared to the eight areas identified in the agenda report from July 14, 2020. Each topic area includes the status of the current policy and an overview of where the policy differs from the recommendation of others. Staff has provided an explanation of potential policy changes.

The United States Supreme Court has acknowledged that no policy can predict every possible situation an officer might encounter. Officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Policies must take into account that officers are forced to make split-second decisions in rapidly unfolding circumstances without the benefit of hindsight. According to state and federal law, all use of force is judged by the objective reasonableness standard; this standard requires use of force decisions be evaluated based on what a reasonable officer would have done in the same situation with the facts and information available to him or her at the time.

The police department policy manual serves as a rule book for how it operates. Police policies must comply with laws and other mandates from both the state and federal government. A good policy also adheres to best practices as determined by subject matter experts. The Pleasanton Police Department, and most other California law enforcement agencies, contracts with Lexipol, a firm specializing in law enforcement policy, to ensure it complies with applicable laws, mandates and current best practices. What a policy does not always capture are areas where the police department exceeds what has been prescribed in its own policy. For example, the police department



incorporates six training days per year into a patrol officer's work schedule. During this training time, officers are exposed to reality-based training scenarios designed to encourage de-escalation. Officers are evaluated and critiqued on their ability to identify de-escalation opportunities and to properly employ de-escalation strategies. Scenarios also incorporate an officer's duty to intercede when another officer uses excessive force.

In addition to training, there are practices which exceed the policy manual's standards. The department's use of force reporting and review process is an example of this: It is far more comprehensive in practice than what is outlined in the policy manual. Updating the policy manual to reflect the more comprehensive procedures already in place is a single step which may serve to further ensure the community that these processes are in place.

Some recent recommendations are already in place by practice and others provide an opportunity to improve our policy to better align with the expectations of the community. While some recommendations may sound practical, in practice they are either unrealistic or pose serious risks to the safety of officers and the public. Following is the police department's evaluation of eight key recommendations for policy change.

### **1. Chokeholds and Strangleholds**

Chokeholds and strangleholds are control techniques which restrict the airway by compressing the trachea. These holds have been banned by nearly all police departments since the 1990s. Controversially categorized as a chokehold is the carotid restraint which applies pressure to the carotid artery to briefly incapacitate suspects without affecting their ability to breathe.

Application of the carotid restraint requires training and competency to be done properly. A successful application of the hold will cause a resisting or combative suspect to lose consciousness for a few seconds. This allows officers just enough time to place the suspect in handcuffs which reduces the likelihood of injury to officers and the suspect and reduces the likelihood of a prolonged altercation in which an escalation of force may be required. Such escalations are more likely to cause a suspect to be seriously injured from other force options such as baton strikes, less-than-lethal ammunition, or a canine bite.

Until recently, the carotid restraint was instructed in California police academies and individual departments chose if, and how, to allow its use through policy. The police department allowed officers specifically trained in its use to apply the carotid restraint in situations when it was reasonable to overcome resistance. During department training, officers were trained to limit use of the carotid restraint to situations where alternative control holds appeared ineffective.

On June 5, 2020, California's Commission on Peace Officer Standards and Training (POST) decertified the carotid restraint and ceased its instruction in police academies. Within days, the Pleasanton Police Department suspended use of the carotid restraint and amended its policy to state "The carotid restraint control hold is not authorized."

Pending state legislation (AB 1196) seeks a statewide ban on use of the carotid restraint; law enforcement legal analysts anticipate this legislation to pass. Opponents of a complete ban point to situations where lethal force is justified, but could be avoided by the application of the carotid restraint.

Staff recommends maintaining the current suspension of the carotid hold.

## **2. Shooting at Moving Vehicles**

The current police department policy states:

“Shots fired at or from a moving vehicle are rarely effective. 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 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. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.”

This policy and related department training emphasize that shooting at moving vehicles is not usually effective. In many cases where an officer fires at a moving vehicle it is because the moving vehicle is being driven at the officer or another officer. Attempts to disable a moving vehicle by shooting its tires or engine is unlikely to stop the vehicle promptly. Targeting the driver of a moving vehicle is difficult and, in these cases, it is almost always more effective to move out of the vehicle’s path.

However, the policy should not prohibit the use of lethal force against the driver or occupant of a moving vehicle. There have been multiple incidents where a suspect has used a vehicle as a deadly weapon against both individuals and large crowds of people.

Two recent examples highlight how officers respond when a suspect flees in a vehicle in the direction of officers:

In 2017, Pleasanton police officers were in pursuit of a stolen Ford Econoline van. The suspect fled into an apartment complex and into a dead end. Officers positioned their vehicles to take the suspect into custody and the suspect put his vehicle into reverse and intentionally rammed an officer’s vehicle several times before fleeing. No officers discharged their firearms at the moving vehicle.

In 2018, Pleasanton police officers responded to a call of a residential burglary in progress. An officer located the suspect’s vehicle fleeing the area and made a U-turn to follow him. The suspect pulled into a court with no outlet. The officer realized the suspect could not exit the court and positioned his vehicle at the intersection in an attempt to block the exit from the court. The officer exited his vehicle and began giving the suspect commands to exit his vehicle. The suspect made eye contact with the officer and for a brief moment raised his hands in the air. The suspect then quickly accelerated toward the officer. The officer attempted to move out of the way and position himself behind his patrol vehicle.

He was able to get the majority of his body behind the vehicle, but his right leg was run over by the suspect's vehicle. The officer sustained a major injury to his leg which required surgery for the broken bones. The officer did not discharge his firearm at the driver or vehicle.

Another circumstance addressed by the current policy is "if deadly force other than the vehicle is directed at the officer or others." This would include situations where an occupant of a vehicle is shooting at people or officers while the vehicle is in motion. If shooting at moving vehicles was entirely prohibited, a suspect could fire indiscriminately at officers, individuals or crowds without fear of intervention by the police.

### **3. De-escalation Training & Practice**

An emphasis on de-escalation training and use is considered best practice in modern law enforcement. The police department and most California law enforcement agencies have focused their attention in recent years toward de-escalating situations whenever possible. This is especially true with situations involving individuals experiencing acute mental health crises. The police department requires newly hired officers attend a 40-hour Crisis Intervention Training (CIT) course as soon as possible once they are hired. The department provides updates to this training as well as Principled Policing training.

De-escalation is recommended throughout the policy in situations where it can be employed. In some cases, de-escalation can mean removing police from the scene altogether which occurs in situations where someone is alone threatening suicide or certain misdemeanor crimes where no threat of violence to others exists. Two examples of recent incidents where officers de-escalated the situation by removing officers from the area:

In June 2020, Alameda County Sheriff's Office (ASCO) deputies were chasing a 30-year-old man who had committed a misdemeanor hit and run vehicle accident. They terminated the pursuit when it became too dangerous to continue. Later in the evening, ACSO deputies saw the suspect standing inside a garage at a residence in Pleasanton. ACSO deputies called Pleasanton police for assistance as the man ran inside the house. Officers surrounded the home and began calling out those inside. Two family members exited and told police that the suspect had made suicidal statements, was possibly armed with handguns and rifles, and was barricading himself inside the residence. The family members also confirmed the suspect was the only person left inside the house. Although the suspect was wanted for two low-level misdemeanor crimes, officers had reason to believe he was suicidal, armed with firearms, and had fortified his position inside. The decision was made to remove officers from the situation instead of forcing entry into the home. Officers left the scene, obtained an arrest warrant and arrested the suspect the following day without any injuries to officers or the suspect.

In August 2020, officers responded to an address in Pleasanton following report of a verbal argument and a 52-year-old male making suicidal statements. While officers were responding, police received a second call from a passerby who

stated a man was standing on the front porch of the residence armed with a firearm. Officers were able to make contact with the man's wife and son away from the residence. The wife told officers her husband was self-employed and was feeling "cooped up" due to the COVID-19 pandemic and had been drinking alcohol all day. She confirmed the man had walked onto the porch with a firearm. The wife and son told officers the argument was verbal only and the man had not committed any criminal act. They also confirmed the man was home alone and they were leaving the residence to allow him to "cool off." Officers determined there was a potential for volatility if they approached the residence and that could put the man or officers in unnecessary danger. As the man was in the home alone, intoxicated and armed with a firearm, they decided to clear officers from the area. This situation concluded without injury to anyone and to date, the police have received no return calls to the residence.

In other situations, a low level of force applied early in an altercation is a form of de-escalation if it prevents higher levels of force becoming necessary if the incident were to evolve. Most commonly, this refers to skilled verbal and non-verbal communication combined with a calm and comforting demeanor to gain compliance without force. Successful de-escalation of this nature requires a degree of cooperation from all involved and requires time, although time and cooperation are not always available. For example, when a person is experiencing a possible mental health crisis, taking time and speaking to them with crisis intervention techniques is the desired outcome, regardless of whether they've committed a crime or not. However, if that person does not have the capacity to cooperate or if that person poses an immediate threat, de-escalation may not be feasible.

The police department trains officers on de-escalation both in policy and practice. The policy encourages de-escalation and officers seek opportunities to de-escalate incidents whenever possible. A recent example occurred when someone called 911 to report a man with a gun. Officers arrived and encountered a hostile and aggressive subject who matched the description provided. Officers were able to place him in handcuffs without using any force options tools and later determined he called 911 on himself seeking to provoke a violent encounter with law enforcement.

While this confrontation ended successfully, requiring de-escalation in every scenario is not possible as there are times when immediate action must be taken to render a situation safe. The key is to provide training, resources and supervision to officers so they can expand the opportunities to de-escalate and better recognize them in tense, rapidly unfolding incidents. The police department plans to evaluate the Police Executive Research Forum (PERF) de-escalation training program called Integrating Communication Assessment and Tactics as part of its continued commitment to prioritizing de-escalation training. The police department continues to provide training on racial and cultural diversity, crisis intervention and principled policing. Each year, officers attend a minimum of 60 hours of Advanced Officer Training. The topics include many legislative and Peace Officer and Standards (POST) mandates.

In 2017, the police department brought in outside experts to teach all officers Procedural Justice and Implicit Bias Awareness. The course was a research-based curriculum designed to increase peace officers' ability to improve the public's confidence and trust in law enforcement agencies. The course melds the principles of Procedural Justice and Implicit Bias to create a broad awareness of these two important concepts. Law enforcement can improve trust and relationships with their communities by using these principles to evaluate their policies, procedures and training within their departments. In addition, developing an understanding of these two concepts enables law enforcement to improve safety and well-being for the public and law enforcement alike.

In 2018, the police department contracted with the Blue Courage Delivery Team to bring a one-day training course to all police officers. The presenters covered a wide range of topics such as diversity/inclusion, leadership, resilience, the nobility of policing, and practical wisdom. In 2019, all officers participated in reality-based training scenarios. These scenarios incorporated use of force decision making, de-escalation strategies, crisis intervention techniques and providing immediate medical aid following the application of force. In 2020, officers are scheduled to attend a Principled Policing course.

Staff recommends adding language to the policy requiring officers consider and utilize alternative tactics and de-escalation techniques when feasible and when doing so will not reasonably compromise the safety of the officers or the community.

#### **4. Exhaust All Alternatives Before Using Force**

Section 300.3.2 of the policy manual outlines factors used to determine the reasonableness of a use of force. One of those factors is "the availability of other reasonable and feasible options and their possible effectiveness." This is taken into consideration as part of the totality of circumstances when reviewing a use of force. If a potentially effective, feasible and reasonable alternative exists to force, officers are expected to pursue it.

A policy requiring the exhaustion of all alternatives regardless of feasibility or possible effectiveness before using force is unrealistic and dangerous. Officers are unable to attempt and exhaust all alternatives in uncertain and rapidly unfolding situations. Time is an important factor and some situations do not afford officers the opportunity to exhaust all alternatives. If a person poses an immediate threat to the safety of others, officers must act rapidly. This is done to minimize risk to the public, officers and to the person posing the threat. A requirement to exhaust all alternatives would put the officers and public at increased risk. As affirmed in U.S. Supreme Court decision *Graham v. Connor*, an officer's decision to use force is based on a reasonable officer standard without the benefit of 20/20 hindsight.

Staff recommends adding language to the policy which would require officers consider actions that may decrease the need for using force when circumstances permit and adding language which encourages officers to utilize reasonably available alternative

tactics which may persuade an individual to voluntarily comply or mitigate the need to use force.

## **5. Require Warnings Before Shooting**

Policy manual section 300.4 states the following in reference to shooting a fleeing suspect:

“Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.”

The policy has similar requirements to provide warning before deploying control devices such as batons, less-than-lethal ammunition, conducted electronic devices and canines.

Not every situation allows time, opportunity or feasibility to provide verbal warnings. Like every person, officers are subject to perception and reaction time, and other contributing factors to perception and reaction time such as visual obscurity, ambiguity and suddenness of a situation requiring a response as well as stress and the complexity of the decision-making process.

The Force Science Institute published a study in 2014 which evaluated officers' perception and reaction times during relatively simple and low-stress situations. The median perception-reaction time was .46 seconds with a maximum time recorded of .84 seconds. This study did not take into account drawing, aiming, safety release or any other physical movements.

Studies of use of force have determined it takes the human brain at least  $\frac{3}{4}$  of a second to perceive a threat and another  $\frac{3}{4}$  of a second to physically react to it. This means that when officers perceive a threat to themselves or others, they are already approximately 1.5 seconds behind the suspect posing the threat. Depending on the situations, a warning may no longer be feasible at this time and therefore cannot be required in every situation. (Lewinski, W. J., Hudson, B., & Dysterheft, J. L. (2014). Police Officer Reaction Time to Start and Stop Shooting: The Influence of Decision-Making and Pattern Recognition. *Law Enforcement Executive Forum*, 14(2), 1-16.)

In practice, officers are trained to always provide verbal warnings when time permits and when there is a possibility of gaining compliance by doing so.

Staff recommends applying the existing warning requirement for shooting at fleeing suspects to all deadly force applications when feasible.

## **6. Comprehensive Reporting**

The police department has both policy and established procedures to review, document and track use of force incidents regardless of severity. Policy manual section 300.5 requires the documentation of all use of force by officers and a broad list of qualifications which require immediate notice be made to a supervisor.

The use of force review process currently in practice at the police department is:

When a supervisor is notified of a use of force, he or she responds to the scene and interviews all officers present and available witnesses. The supervisor ensures injuries are documented and any available evidence is collected. The supervisor will attempt to obtain a statement from the person on whom the force was applied. This administrative statement is entirely separate from any criminal investigation and cannot be used in court proceedings against the suspect. This is to encourage the suspect to provide an honest account of the incident. Supervisors will ask the suspect if any of the officers acted inappropriately. The supervisor reviews body-worn video and any other available video evidence to confirm it aligns with statements made by officers and witnesses.

Use of force by an officer(s) is subject to extensive review: A use of force notification form is completed by the supervisor (a sergeant). The form requires the supervisor attest to taking the above described steps and lists seven criteria in which a more comprehensive administrative review is required. All forms and any additional documentation are forwarded to the unit manager (a lieutenant) for a second review and then are forwarded to the Division Commander (a captain) for a third level of review. Following this, the form is submitted to the force options training manager (a lieutenant) for a review specifically for training needs or deficiencies. The form is then forwarded to the professional standards unit supervisor (a sergeant) who collects statistical data from the incident and tracks the use of force. Finally, the entire review is forwarded to the Chief of Police for final review. At the Chief's discretion, the review may be forwarded to the City Attorney's Office if civil litigation is anticipated. The police department is currently exploring a use of force tracking and early warning system managed by the Professional Standards Unit; a portion of this system was scheduled to go live in early 2020 although implementation has been delayed due to COVID-19.

Since 2018 the department has exceeded Lexipol policy standards in the development of its use of force reporting. Supervisors utilize a use of force notification form to collect data far exceeding notification requirements as outlined in current policy. While policy uses factors such as visible injury, continuing pain, intent to pursue litigation, conducted energy device application, and subjects who were rendered unconscious, or were hit or kicked as triggers to report the use of force, the current standard used by the police department is to report any amount of force used to overcome physical resistance.

Staff recommends strengthening the policy to reflect our existing reporting practice and the implementation of a use of force tracking and early warning system.

## **7. Duty to Intercede**

Police department policy manual section 300.2.1 states:

"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. An officer who observes another employee use force that exceeds the degree of

force permitted by law should promptly report these observations to a supervisor.”

The department has implemented scenario training which places officers in circumstances requiring them to actively intercede to prevent excessive uses of force. Following these scenarios, officers review the related policy and discuss options on how to verbally and physically intercede if excessive force by another officer is observed.

Staff recommends amending the policy to state officers “shall” promptly report these observations to a supervisor.

## **8. Use of Force Continuum**

A use of force continuum is a training model with varying definitions. Years ago, a “force ladder” concept was taught which created a hierarchy of use of force options. At the bottom was “command presence” and verbal commands. In ascending order above that were control holds, pepper spray, Taser, baton, etc. Force options instructors nationwide moved away from this model of training because situations may require an officer escalate and de-escalate to different levels of force instantly. For example, if verbal commands are being attempted and the suspect pulls a firearm, an officer would not be expected to attempt to use a control hold and then pepper spray and then all of the other options before resorting to lethal force to defend his or her life within less than a second.

Police training has shifted away from the “force ladder” and now teaches a “force wheel” model. The officer is at the center of this conceptual wheel and each force option is a spoke. The officer may be required to escalate force to a higher level and then de-escalate force to a lower level as a situation unfolds. Instead of subsequent “steps” in the ladder, it may be a rapid change in direction to a different spoke of the wheel.

Although a “force wheel” and “force ladder” have been used as conceptual training models, a use of force continuum is a theoretical model that has proven impractical. Use of force decisions are made instantly based on facts and circumstances known to the officer at the time. It is dangerous to create a policy which requires a specific order of escalation of force because the possibility of situations in which decisions must be made is endless.

The following chart summarizes existing policy and staff’s recommendation for each of the eight use of force policy areas.



POLICY AREA	CURRENT POLICY	RECOMMENDATION
<b>1. Chokeholds &amp; Strangleholds</b>	The carotid restraint is currently suspended pending state legislation.	Recommend no change to this policy.
<b>2. Shooting at Moving Vehicles</b>	Discourages shooting at vehicles but recognizes situations where no reasonable alternatives may exist to save lives. These situations include when a vehicle is being used as a deadly weapon or when a person is shooting from the vehicle.	Recommend no change to this policy.
<b>3. De-escalation Training &amp; Practice</b>	Encouraged in policy. Scenario-based training regularly incorporates identifying de-escalation opportunities.	Add language to the policy requiring officers consider and utilize alternative tactics and de-escalation techniques when feasible and when doing so will not reasonably compromise the safety of the officers or the community.
<b>4. Exhaust All Alternatives Before Using Force</b>	Not required in policy.	Add language to the policy which would require officers consider actions that may decrease the need for using force when circumstances permit.  Add language which encourages officers to utilize reasonably available alternative tactics which may persuade an individual to voluntarily comply or mitigate the need to use force.
<b>5. Warning Before Shooting</b>	Warnings are required, when feasible, preceding deadly force applications when suspects are fleeing.	Apply the warning requirement for shooting at fleeing suspects to all deadly force applications.
<b>6. Comprehensive Reporting</b>	Policy outlines process for reviewing significant uses of force and recommends supervisors respond to these calls.  Statistical data from use of force is tracked manually.  No early warning system is in place.	Update the policy to reflect the current use of force review and reporting practice. Current practice requires supervisors respond, investigate and document all use of force incidents. The process has six levels of review and compiles statistical data at the end of the year.  Implement use of force tracking and early warning system.
<b>7. Duty to Intervene</b>	Duty to intercede policy requires officers intervene in excessive uses of force.	Add requirement to report excessive use of force to supervisor following incident.
<b>8. Use of Force Continuum</b>	Not in policy.	No changes are recommended. A use of force continuum is a training concept that cannot realistically be applied to every possible situation an officer may encounter.

**CONCLUSION**

In this critical time and national movement for continued police reform, there is also a genuine need and desire to overcome complex societal issues and promote effective crime reduction while continuing to build public trust. The recommended actions provide important first steps that will enhance police interactions with the community by providing an alternate model of response to those in mental crisis and ensure the department's use of force policies are contemporary and recognize the unpredictable circumstances in policing.

Submitted by:



David Swing  
Chief of Police

Fiscal Review:



Tina Olson  
Director of Finance

Approved by:

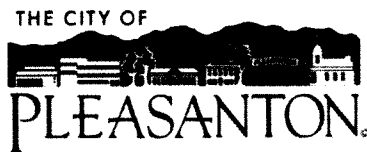


Nelson Fialho  
City Manager

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Attachment

1. July 14, 2020 Agenda Report



## CITY COUNCIL AGENDA REPORT

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July 14, 2020  
City Manager

**TITLE: REVIEW AND CONSIDERATION OF A COUNCIL-SPONSORED ACTION PLAN TO FACILITATE: 1) COMMUNITY LISTENING SESSION(S); 2) A PROCESS FOR REVIEW OF EXISTING POLICE DEPARTMENT POLICIES AND PROCEDURES; AND 3) CONSIDERATION OF NEAR- AND LONG-TERM POLICY GOALS FOR COMMUNITY POLICING – TO BE INCORPORATED INTO THE CITY’S WORKPLAN AND BUDGET PROCESS**

### **SUMMARY**

The City Council requested an action plan to initiate a public discussion regarding community policing in Pleasanton in response to a national call for police reform. The City of Pleasanton and Pleasanton Police Department (PPD) are committed to transparency, listening, learning, and improving the way policing is performed in our community. While PPD has longstanding and demonstrated success of accountability to the community it serves, the City embraces this opportunity to discuss policing in Pleasanton and how it could change.

This staff report outlines a process to examine ways of fostering strong, collaborative relationships between our police department and the community they serve and protect. The report outlines a three-step process to facilitate: 1) listening to our community; 2) review of existing PPD policies and procedures; and 3) consideration of near- and long-term policy goals for community policing to be incorporated into the City’s workplan and budget process.

### **RECOMMENDATION**

It is recommended that the City Council review and consider adoption of the Action Plan below, including the proposed timeline for completion.

### **FINANCIAL STATEMENT**

Approval of this action plan does not create immediate impacts to the City’s operating and capital budgets. It is possible that future City-approved policies, including expanded training and development for PPD, new community programs and initiatives, and expanded staffing resources to address mental health crisis intervention could impact the City’s future operating and capital budgets. This would be addressed through subsequent actions of the City Council, including adoption of the City’s workplan and future operating and capital budgets.

## **DISCUSSION**

Trust between law enforcement and the people they protect and serve is essential in a democracy. While the City and PPD remains committed to the tenets of community policing, there is also very strong support to initiate a continuous and well-thought-out public engagement effort to bolster confidence and two-way communication. Underpinning these objectives will be a Council-sponsored public process that emphasizes transparency, listening, learning, and improving the way policing is performed in our community.

To achieve these objectives, City staff has developed a three-point plan for consideration by the City Council, along with a timeline for completion, as follows:

### **1. COMMUNITY LISTENING SESSION(S)**

Staff recommends that the City Council host a community listening session/council workshop on **Tuesday, July 21, 2020, at 6:30 p.m.** This listening session would be in lieu of the City's regularly scheduled City Council meeting, which would be rescheduled to August 4, 2020, to conduct the City's regular business. The listening session would be convened and led by the City Council and open to the public. The format of the session would be similar to a public workshop, where the City Council listens and gathers input from interested residents with no formal action taken that evening. To ensure the health and safety of meeting participants during the pandemic, the listening session/public workshop would be held virtually.

No staff report or presentation would be proposed for this evening. Instead, the open-mic format would enable the community to address the Council regarding desired police reform locally, relay their direct experiences with PPD, and other related topics. The primary goal is to create an environment that welcomes feedback and difficult conversations regarding policing in Pleasanton. Other session goals could also include:

- A better understanding of the systemic challenges faced by communities of color in Pleasanton, including their challenges and experiences with PPD.
- Sharing the perceptions and realities of policing in Pleasanton.
- Understanding community expectations and concerns when it comes to law enforcement in Pleasanton, including in the areas of mental health crisis response, use of force policies, and the training and development of personnel, to name a few.
- Identifying critical community resources for vulnerable populations, including Pleasanton's residents who are currently unhoused.
- Opening lines of communication, hearing feedback directly, and building legitimacy and trust with vulnerable populations.

#### **Alternative Recommendation:**

Instead of cancelling the July 21, 2020, regular Council meeting, the Council could host a listening session on **Tuesday, July 28, 2020**, in the same format described above.

This would preserve the Council's regularly scheduled meeting to conduct routine City business.

## 2. REVIEW OF EXISTING DEPARTMENT POLICIES AND PROCEDURES

Following the City's listening session(s), the Council may wish to initiate a comprehensive public review of existing major PPD use-of-force policies during the months of August and September. This could also be expanded to include a review of the department's call data and statistics and organizational operations (e.g. budget and response times), as well as information about PPD programs and community outreach. As part of this review, the City Council would also review recommendations from the Police Chief and City Manager regarding police accountability best practices, policies, and training, including an updated status report on PPD's implementation of the President's Task Force on 21<sup>st</sup> Century Policing. The goal of this comprehensive review would be to assess the department's strengths and to identify areas for improvement in alignment with community values and objectives. Meeting announcements will be advertised through expanded outreach channels, including the City's social media platforms. Initially, meetings would be held in a virtual setting, unless the County's Shelter in Place Order (SIPO) is further modified to allow meeting gatherings in indoor spaces, such as the Council Chambers or other City facilities.

The following graphics further illustrates the areas of review by the City Council, including two proposed dates for consideration – **Thursday, August 20, 2020, and Thursday, September 17, 2020. Both meetings would start at 6:30 p.m.**

**Use of Force**  
August 20, 2020

Review the department's policies related to use of force, specifically in the following areas:

- 1 Chokeholds and strangleholds
- 2 Shooting at moving vehicles
- 3 De-escalation training & practice
- 4 Exhaust all alternatives before using force
- 5 Warning before shooting
- 6 Comprehensive reporting
- 7 Duty to intervene in case of inappropriate use of force
- 8 "Reasonableness" situation-based use-of-force alternatives



# 21st Century Policing

September 17, 2020

Status report of the department's implementation of the President's Taskforce on 21st Century policing.

1

*Pillar 1: Building Trust & Legitimacy*

4

*Pillar 4: Community Policing & Crime Reduction*

2

*Pillar 2: Policy and Oversight*

5

*Pillar 5: Training & Education*

3

*Pillar 3: Technology & Social Media*

6

*Pillar 6: Officer Safety & Wellness*

These areas of review can be expanded based on Council and community interest. This is not an exhaustive list, but rather a starting point for discussion and collaboration. As with any public review process, it will be important to be clear about the issues, adopt a mindset of inquiry, and leave each meeting with a list of action items. To keep the community engaged and updated throughout the proposed timeline, the City will establish a website to complement this phase of the public review process. Minimally, the website will include information about upcoming meetings, department data, reports and policies, and other relevant information.

### **3. CONSIDERATION OF NEAR- AND LONG-TERM POLICY GOALS FOR COMMUNITY POLICING – TO BE INCORPORATED INTO THE CITY'S WORKPLAN AND BUDGET PROCESS**


It is anticipated the aforementioned public review process will result in a request for expanded and/or redirected City resources to align police services with community expectations. The options for implementation vary from the more immediate Council-initiated policy adjustments in the August and September timeframe (near-term) to the more extensive allocation and/or reallocation of City financial resources to address community concerns (long-term). Regarding the latter, some possible next steps may include expanded training and development for PPD, new community programs and initiatives to enhance community partnerships, and/or the expansion of civilian staffing resources to address crisis response in the areas of mental health and homelessness. These more holistic efforts would be addressed through subsequent actions of the City Council, including the adoption of the City's amended work plan for calendar years 2020 and 2021 and future operating and capital budgets, including the City's 2020/21 mid-year budget update. The amended work plan and mid-year budget update would be accomplished in the first quarter of calendar year 2021.


## CONCLUSION

In this critical time of national concern about police legitimacy and criticism of the law enforcement profession, there is a genuine need and desire to overcome complex societal issues and promote effective crime reduction while continuing to build public trust. This proposed draft action plan provides a framework for thoughtful and intentional discussions regarding police reform in Pleasanton, including a reasonable timeline for implementation of each step.

The City of Pleasanton and PPD is committed to ensuring that each fulfills its role in this endeavor, while also continuing to provide the highest quality police services to meet or exceed the expectations of the Pleasanton community. Equally important to this process is the genuine participation and collaboration of our community and hearing from all sides of our community. With this backdrop in place, PPD, with the collaborative support of peer departments across the larger City organization, is well-positioned to build on their recognized strengths and to proactively seek opportunities to improve in alignment with community expectations.

Jointly Submitted by:

  
Nelson Fialho  
City Manager

  
David Swing  
Police Chief

Fiscal Review:

  
Tina Olson  
Finance Director

Attachment:

1. President's Task Force on 21<sup>st</sup> Century Policing