

October 7, 2020

The Hon. Lovely Warren  
Mayor of Rochester

VIA EMAIL [lovely@mayorlovelywarren.com](mailto:lovely@mayorlovelywarren.com)

**RE: NYCLU calls for immediate action regarding the policing of protestors, responses to residents in mental health crisis, and transparency on police-involved deaths**

Dear Mayor Warren,



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[nyclu.org](http://nyclu.org)

Donna Lieberman  
*Executive Director*

Olivier Sylvain  
*President*

The New York Civil Liberties Union (NYCLU) writes to express grave concerns about a number of matters that have surfaced in the wake of revelations about the police-involved death of Daniel Prude. Specifically, we have witnessed the Rochester Police Department (RPD) wield unwarranted aggression and abusive tactics toward residents peacefully protesting Mr. Prude's murder and calling for reform. We have learned from Mr. Prude's death that the RPD can no longer respond to residents in behavioral health crisis, and that the city must immediately create safe alternatives. And we have seen how the city's and RPD's lack of transparency about the circumstances surrounding Mr. Prude's death has only delayed justice and accountability. To address these concerns, we call on you and your administration to take immediate action as follows.

### **1. Cease and Desist Aggressive and Violent Police Actions Towards Protestors**

Following the September 2, 2020 release of video of Mr. Prude's murder, by his family members and local activists, Rochester community members have mobilized in the streets to express their justifiable outrage on a daily basis. Their protests have been met with extremely aggressive and unacceptable police tactics at the hands of the RPD and the New York State Troopers. Law enforcement has instigated conflict with protestors, used excessive force against thousands of peaceful protestors in response to the actions of a handful of protestors, and declared assemblies unlawful with little or inconsistent justification.<sup>1</sup> They have deployed military vehicles and dogs, Long Rang Acoustic Devices (LRADs), sound cannons, rubber bullets, flash bangs, tear gas, and pepper balls against peaceful demonstrators, including elderly individuals and children.<sup>2</sup> Numerous journalists covering the protests reported that they were injured by projectiles, directly sprayed with pepper spray, or indirectly exposed to pepper spray.<sup>3</sup> In addition, the RPD is

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<sup>1</sup> In a September 16 letter to Gov. Cuomo, seven local officials detail their experience with police aggression on Sept. 5 2020, when police shot pepper balls at their heads and bodies, causing at least one concussion. See WROC Staff, "Local officials pen letter to Gov. Cuomo regarding state police response in Rochester protests," *Rochester First* (Sept. 18, 2020), *accessible online at*: <https://www.rochesterfirst.com/daniel-prude/local-officials-pen-letter-to-gov-cuomo-regarding-state-police-response-in-rochester-protests/>.

<sup>2</sup> *Id.*

<sup>3</sup> "Reporter Adria Walker took a faceful of pepper spray a few times and was struck in the leg by an object. Photographer Tina MacIntyre-Yee took a pepper ball to the head; thankfully she was wearing a bicycle helmet. And reporters Will Cleveland and Natalia Rodríguez Medina were subjected to pepper spray wafting our way; so was I.

unnecessarily holding protestors arrested for low level offenses—such as trespassing or breaking curfew—for hours before giving them an appearance ticket and releasing them.<sup>4</sup> The use of these tactics is gravely concerning both because of the physical injuries and harm caused to individual protestors as well as the unjustified suppression of protestors’ First Amendment freedom of speech and freedom of assembly rights. We call on you to immediately implement the following changes to police response to protests in Rochester:

- **End the use of tear gas on protestors:** Tear gas and other chemical weapons have been banned for use in warfare since the 1925 Geneva Convention. They attack respiratory systems, cause coughing, and make it hard to breathe. The deployment of tear gas against peaceful protestors, vulnerable populations, and protestors who are kettled or otherwise unable to leave is unacceptable at any time. During the COVID-19 pandemic, tear gas can exacerbate illness by making the respiratory tract more susceptible to infection, exacerbating existing inflammation, and inducing coughing.
- **End the weaponization of Long Rang Acoustic Devices (LRADs) against protestors:** The deployment of LRAD devices against protestors by subjecting them to an unbearable wall of sound can cause serious injury, including permanent hearing loss.
- **End the practice of aiming projectiles at protestors’ heads and upper bodies:** Such practices can cause grievous injuries including blinding protestors, head trauma, and other bodily injuries.
- **End the deployment of dogs against protestors:** The use of police dogs at protests is a disturbing call-back to the violent suppression of civil rights activists in the 1960s and is entirely unacceptable.
- **End excessive use of military equipment at protests:** Protestors calling for justice are not enemy combatants, and Rochester is not a war zone. The use of military equipment such as helmets, camouflage, assault rifles, and tanks at protests is an unnecessary provocation against Rochester community members.



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On Friday and/or Saturday night, reporter Georgie Silvarole suffered a bruise to the leg from a projectile, and photographers Shawn Dowd and Jamie Germano were struck multiple times in the upper body. These incidents are concerning. The health and safety of our journalists is paramount, and we are reviewing what new protective gear we should invest in for coverage of any future instances of unrest.” Michael Kilian, “D&C journalists bear witness to a moment Rochester is challenged to meet,” *Democrat & Chronicle* (Sept. 13, 2020), *accessible online at*: <https://www.democratandchronicle.com/story/news/2020/09/13/rochester-protest-democrat-and-chronicle-journalists-coverage-ital/5781491002/>; *see also* Sarah Maslin Nir, “I don’t think I ever could have expected to be fired on with chemical itinerant while covering a small, unequivocally peaceful protest. In America.”, @SarahMaslinNir, *Twitter.com* (Sept. 3, 2020), *accessible online at*: <https://twitter.com/SarahMaslinNir/status/1301713305501929473?s=20>, and Zach D Roberts, “Hit again in the back I was shooting with a telephoto lens at an extreme distance completely off the roadway. They’re directly targeting press now well and have been. #RochesterNY #Rochester #RochesterUprising #rochesterprotest #policeriot,” @zdroberts, *Twitter.com* (Sept. 5, 2020), *accessible online at*: <https://twitter.com/zdroberts/status/1302444946318913536>.

<sup>4</sup> In one case, trans activist Zariah Williamson was arrested and transported to a suburban facility from which she was released. Ms. Williamson had to walk for nearly an hour to return to her car because her belongings had been taken away from her and she had no ability to contact friends or family.



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- **Require clear identification of law enforcement officers at protests:** The identity and affiliation of law enforcement officers must be clearly identifiable to members of the public. The use of mourning bands to cover badges must not be allowed.
- **Require law enforcement officers to wear face masks:** Law enforcement officers should abide by the same rules and COVID best practices as everyone else. Their refusal to wear masks puts the public at risk.
- **End the excessive detention of protestors arrested for low-level offenses:** Individuals should be processed quickly and released.

Rochester police have sworn to serve the people of Rochester, not violently suppress dissent with military tactics. The violent overreach of the Rochester police and New York State Troopers shows just why our national conversation about reimagining policing is so important and so urgent. It's an example of why policing itself poses a relentless threat, especially to Black and Brown New Yorkers

## 2. **End RPD involvement in responding to persons in behavioral health<sup>5</sup> crisis, and transfer that responsibility to a system of trained civilians.**

The police-involved death of Mr. Prude tragically demonstrates that the RPD can no longer be tasked with responding to calls of residents experiencing a mental health or substance use crisis. Instead, the city must immediately establish a civilian crisis system that deploys culturally competent health professionals to aid individuals in distress; such professionals must have the training and expertise to safely stabilize individuals in crisis and connect them to treatment, and to do so in a way that dramatically reduces the risk of serious injury and death to the community. And the design, implementation, and monitoring of such a program must be driven by the Rochester community. Individuals with untreated mental illness are 16 times more likely to be killed during a police encounter than others approached or stopped by an officer.<sup>6</sup> And when the person

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<sup>5</sup> In this letter, the term “behavioral health” includes mental health and substance use/abuse.

<sup>6</sup> Doris Fuller, et al. “Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters,” *Treatment Advocacy Center: Office of Research & Public Affairs* (Dec. 2015) at 1, *accessible online at:* <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>.

The Washington Post’s database of fatal police shootings found that 20-25% of fatal police shootings killed a person with mental illness, and that approximately 92% of people killed by police while holding some sort of weapon (ranging from a toy weapon to a knife or a gun) were people with a mental illness. Approximately 28% of those people with mental illness killed by police were Black or Latinx. But, those numbers apparently only represent those “perceived to be mentally ill at the time of the shooting,” so the real numbers and percentages may be much higher. See “Fatal Force,” *Washington Post* (last updated Sept. 28, 2020), *accessible online at:* <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>. One study found close to one-third of those killed by police were people with disabilities. David M. Perry and Lawrence Carter-Long, “The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability,” *Ruderman Family Foundation* (March 2016), *accessible online at:* [https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability\\_final-final.pdf](https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf); see also Kate Mather and James Queally, “More than a third of people shot by L.A. police last year were mentally ill, LAPD report finds,” *Los Angeles Times* (March 1, 2016), *accessible online at:* <http://www.latimes.com/local/lanow/la-me-ln-lapd-use-of-force-report-20160301-story.html>. Studies in individual jurisdictions have reported numbers as high as 57% and 81%. See, e.g., Alex Emslie, and Richard Bale, “Half of those Killed by SFPD are Mentally Ill,” *KQED* (Sept. 30, 2014), *accessible online*



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in crisis is also a person of color, the risk that police will use force increases.<sup>7</sup> Police are not mental health counselors; they lack the comprehensive training and skills needed to provide the safe and appropriate response to those in distress. Moreover, the presence of armed police officers can quickly escalate crisis situations. In worst case scenarios, officers use force in response to a person in crisis, causing serious bodily injury and sometimes even death, as in Mr. Prude’s case, to those who simply need the care and support of trained health professionals and certified peer specialists.<sup>8</sup>

An individual who is feeling suicidal, or a family who sees one of their members acting erratically, or a person who thinks a friend is impaired by a dangerous substance, should all be able to quickly and easily access public services for help without fear that their friend or loved one will be hurt or killed. That’s why the city must take the RPD out of the business of responding to individuals in behavioral health crises and place that job in the hands of trained professionals.

National guidelines issued by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services (“SAMHSA Guidelines”)<sup>9</sup>—and developed by professionals who have worked in successful crisis care systems as well as the individuals and families who have relied on these services in times of need—describe the **three core components** of a crisis response system.<sup>10</sup> The NYCLU calls on the city to take immediate action to establish an adequately funded, completely civilian-run program consisting of these three essential, coordinated services.

- **Crisis Call Center.**<sup>11</sup> The city must implement a clinically-staffed call hub as an alternative to 911. The crisis call center must operate 24/7/365 with trained staff who respond to every call, assess risk, and triage. The center staff must connect callers to the appropriate services, such as coordinating an immediate response by a crisis mobile team or doing a warm hand-off and arranging transportation to facility-based care. The city must also train its 911 dispatch to identify calls of individuals in behavioral health crisis and must re-route such calls to the crisis center, once the center is up and running.

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at: <https://www.kqed.org/news/147854/half-of-those-killed-by-san-francisco-police-are-mentally-ill>; Fuller, “Overlooked and Undercounted” at 7.

<sup>7</sup> See “Fatal Force,” *Washington Post*, *supra*; see also Phillip Atiba Goff *et al.*, “The Science of Justice: Race, Arrests, and Police Use of Force,” *Center For Policing Equity* (July 2016), *accessible online at*: [https://policingequity.org/images/pdfs-doc/CPE\\_SoJ\\_Race-Arrests-UoF\\_2016-07-08-1130.pdf](https://policingequity.org/images/pdfs-doc/CPE_SoJ_Race-Arrests-UoF_2016-07-08-1130.pdf) (finding that Black people suffer police violence at approximately 3.5 times more often than White people).

<sup>8</sup> The New York Peer Specialist Certification Board and the Bureau of Recipient Affairs of the NYS Office of Mental define a certified peer specialist as a person who, by virtue of special knowledge, training, and experience, is uniquely able to inform, motivate, guide and support persons in recovery from a mental health diagnosis. New York Certified Peer Specialist PROVISIONAL Application (2020), *accessible online at* [http://www.nypeerspecialist.org/files/NYCPS%20Application%20June%20202015%20Version%201\\_1.pdf](http://www.nypeerspecialist.org/files/NYCPS%20Application%20June%20202015%20Version%201_1.pdf).

<sup>9</sup> “National Guidelines For Behavioral Health Crisis Care – A Best Practice Toolkit,” *Substance Abuse & Mental Health Services Administration* (2020), *accessible online at*: <https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf> (describing best practices and national guidelines for providing in-patient and outpatient crisis care for behavioral health conditions) (“SAMHSA Guidelines”).

<sup>10</sup> SAMHSA Guidelines at 12-13.

<sup>11</sup> SAMHSA Guidelines at 14-17.



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- **Crisis Mobile Team Response.**<sup>12</sup> The city must have trained mobile crisis teams available 24/7/365 to provide rapid response to individual in crisis. Each mobile crisis team must be made up of at least two people—one who is a licensed and/or credentialed clinician who can assess the needs of the individual in distress, and the other who is a certified peer specialist.<sup>13</sup> As directed by the crisis call center, the teams must respond where the person is, be it at home, work or on the street. The mobile team must triage the individual’s immediate situation, work to help them feel immediate relief, and connect them to facility-based care as needed through warm hand-offs and coordinating transportation when and only if the situation requires such response. These mobile teams must respond without law enforcement accompaniment unless the crisis mobile team determines that special circumstances warrant law enforcement assistance.<sup>14</sup>
- **Crisis Receiving and Stabilizing Services.**<sup>15</sup> The city must have at least one facility that operates as crisis reception and stabilization center. The center must have a no-rejection policy; it must accept all behavioral health referrals, including walk-ins, referrals from the crisis call center and mobile response teams, and drop-offs by all first-responders. This center must operate 24/7/365 and must be staffed with a multidisciplinary team of clinicians, paraprofessionals, and certified peer specialists who work in a coordinated fashion to address the immediate behavioral health needs of the community member in distress.

The city of Rochester can look to the experiences of other jurisdictions for further guidance in refining its system of care. Among the most promising civilian mobile crisis services programs is the one that started in Eugene, Oregon in 1989—the Crisis Assistance helping Out on the Streets (CAHOOTS) program.<sup>16</sup> A CAHOOTS mobile

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<sup>12</sup> SAMHSA Guidelines at 18-21.

<sup>13</sup> All certified peer specialists staffing both the mobile team response and the receiving and stabilizing service center[s] must have experience working with people in crisis, such as those who have worked in crisis respite centers, and also have experience in deescalating crises. To the greatest extent possible, the certified peer specialists must either live or work in the communities in which they are hired to serve.

<sup>14</sup>Such special circumstances are defined by reference to New York State Mental Hygiene Law § 9.39 which defines “substantial risk of physical harm to [them]self as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to [them]self and “substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.”

<sup>15</sup> SAMHSA Guidelines at 22-24.

<sup>16</sup> See “Crisis Assistance Helping Out On The Streets, Media Guide 2020,” *White Bird Clinic* (2020) (reviewing the history of CAHOOTS, the services provided, and the financial savings), *accessible online at: <https://whitebirdclinic.org/wp-content/uploads/2020/07/CAHOOTS-Media.pdf>*; CAHOOTS brochure, *White Bird Clinic, accessible online at: [https://whitebirdclinic.org/wp-content/uploads/2020/06/11x8.5\\_trifold\\_brochure\\_CAHOOTS.pdf](https://whitebirdclinic.org/wp-content/uploads/2020/06/11x8.5_trifold_brochure_CAHOOTS.pdf)*. See also Taleed El-Sabawi and Jennifer J. Carroll, “A Model Act for a Behavioral Health Crisis Response Team,” *Elon University Law Legal Studies Research Paper Forthcoming* (Sept. 8, 2020) at 26-29, *available online at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3683432](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3683432)*.



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crisis team consists of a crisis worker with several years in the mental health field, and a medical professional, either a nurse or an EMT; they are not law enforcement officers and do not carry weapons. The CAHOOTS teams rely on trauma-informed de-escalation and harm reduction techniques to deal with a wide range of behavioral health crisis situations and ensure a non-violent resolution. Referrals to CAHOOTS teams come from various sources; 911 call dispatchers are also trained to recognize non-violent situations with a behavioral health component, and route those calls to CAHOOTS. A team will respond, assess the situation and provide immediate stabilization in case of urgent medical need or psychological crisis, assessment, information, referral, advocacy and, when warranted, transportation to the next step in treatment. In 2019, CAHOOTS handled more than 24,000 calls, about 17% of the calls dispatched by 911. CAHOOTS teams called for police backup in 150 instances or less than 1% of the time.<sup>17</sup>

Advocates in New York City are attempting to secure funding to operate a pilot project—under the auspices of the Office of Consumer Affairs in New York City’s Department of Health and Mental Hygiene—that would be a peer-driven, non-police alternative mental health crisis response system in two police precincts with high volumes of calls regarding individuals in crisis.<sup>18</sup> Similar to the CAHOOTS model, mobile teams made up of a peer trained as a crisis counselor and an EMT will be available 24/7/365 to respond to calls, and can transport individuals to drop in centers, safe havens, the new support and connection centers, urgent care centers, or hospitals. And since the killing of George Floyd in May, cities including San Francisco, CA<sup>19</sup> Chicago, IL,<sup>20</sup> Albuquerque, NM,<sup>21</sup>

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<sup>17</sup> *Id.*; see also Christie Thompson, “This City Stopped Sending Police to Every 911 Call,” *The Marshall Project* (July 24, 2020), accessible online at: <https://www.themarshallproject.org/2020/07/24/crisisresponders>.

<sup>18</sup> “Piloting a Peer-Driven Mental Health Crisis Response Program,” *Correct Crisis Intervention Today – NYC*, accessible online at: <http://www.ccitnyc.org/wp-content/uploads/2013/08/9.10.2020-CCITNYC-Pilot-Final-1.pdf>; Caroline Lewis, “The NYPD Currently Responds To Mental Health Crisis 911 Calls. Advocates Have Another Approach,” *Gothamist* (June 14, 2020), accessible online at: <https://gothamist.com/news/nypd-currently-responds-mental-health-crisis-calls-advocates-have-another-approach>.

<sup>19</sup> Press Release, “Mayor London Breed Announces Roadmap for New Police Reforms,” *City and County of San Francisco Office of the Mayor* (June 11, 2020), <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>; Joshua Sabatini, “Mental-health crisis teams could replace police response,” *SF Examiner* (Aug. 21, 2020), accessible online at: <https://www.sfoxaminer.com/news/sf-to-launch-mental-health-crisis-teams-to-replace-police-response/>.

<sup>20</sup> Taylor Moore, “A New Crisis Hotline Could Serve As an Alternative to Policing in Chicago,” *In These Times* (Sept. 17, 2020), accessible online at: <https://inthesetimes.com/article/crisis-hotline-defund-police-chicago-socialist-black-lives-matter>. Legislation has been introduced calling for the creation of a 24-hour crisis hot-line that would divert calls about suicide, homelessness, substance use and conflict resolution away from the police and toward a team of social workers, nurses and emergency medical technicians. The program would be operated by the Department of Public Health and Office of Emergency Management and Communications, and funding would come directly out of the 2021 Chicago Police Department budget, which currently stands at \$1.78 billion. The proposed Chicago Crisis Response and Care System also calls for reopening the six city-funded mental health clinics that were closed by former Mayor Rahm Emanuel in 2012. If this proposal is implemented, residents can call a new city line, 211, for mental health and housing crises, non-emergency first aid, suicide intervention and conflict mediation. From there, a clinical social worker and either a registered nurse or emergency medical technician would be dispatched. The program is inspired by (CAHOOTS).

<sup>21</sup> Press Release, “Mayor Tim Keller to Refocus Millions in Public Safety Resources with First-of-Its-Kind Civilian Response Department,” *City of Albuquerque* (June 15, 2020), accessible online at:

Los Angeles, CA<sup>22</sup> Austin, TX<sup>23</sup> and Denver, CO<sup>24</sup> have all announced they are developing civilian first-responder programs.

We are encouraged by recent reports that the city is setting up a civilian mobile crisis response under the jurisdiction of the Department of Recreation and Youth Services. However, we need much more information about the initiative to ensure that it is evidence-based, person-centered, and community-driven.<sup>25</sup> Indeed, we have no information about what community input is being solicited in the design of these civilian programs, and how the community will be involved in monitoring the effectiveness of the services. Individuals living with behavioral health challenges and their families, certified peer specialists, and behavioral health care professionals from Rochester’s Black Healers Network all must drive the creation, implementation and evaluation of any new services to ensure that they meet the needs of the city’s residents.<sup>26</sup>



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Establishing a civilian crisis call center that is distinct from 911 dispatch is essential for ensuring the needed separation from police, as is making clear that mobile teams must have the autonomy to decide whether and when to involve the police. Also, the public must know what facilities and programs will provide treatment services after the initial triage and stabilization by a mobile team, and where they or their families can simply walk in for help if they are in crisis. In other words, the city must implement all three core components outlined by SAMHSA to ensure safe care for its residents.

The SAMSHA Guidelines differentiate between *minimum expectations* and *best practices* to operate each of the three essential components of a crisis system.<sup>27</sup> We call on the city

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<https://www.cabq.gov/mayor/news/mayor-tim-keller-to-refocus-millions-in-public-safety-resources-with-first-of-its-kind-civilian-response-department>.

<sup>22</sup> See Libby Denkmann, “LA Moves Ahead With Plans For Unarmed Responders On Some 911 Calls,” *LAist* (June 25, 2020), accessible online at: <https://laist.com/latest/post/20200624/LAPD-city-council-911-response-unarmed> (“The Los Angeles City Council today took a step toward creating a “crisis response plan” to replace LAPD officers with unarmed service providers for some emergency calls. The five-member Ad Hoc Committee on Police Reform approved a motion asking city staff to create a plan and study similar models elsewhere, like one in Eugene, Oregon.”)

<sup>23</sup> Matt Vasilogrammbros, “If the Police Aren’t Needed, Let’s Leave Them Out Completely,” *New Mexico In Depth* (June 24, 2020), accessible online at: <http://nmindepth.com/2020/06/24/if-the-police-arent-needed-lets-leave-them-out-completely/>.

<sup>24</sup> Sam Tabachnik, “How do cops spend their time? As Denver debates police funding, these numbers offer an inside look,” *Denver Post* (Sept. 6, 2020), accessible online at: <https://www.denverpost.com/2020/09/06/denver-police-officer-time-job-funding-data/>. This summer, the city launched a pilot program, the Support Team Assisted Response or STAR, where a paramedic and mental health clinician respond without police. Thus far, police have not been asked to back up the clinicians on their more than 350 calls, according to program organizers. Vasilogrammbros, “If the Police Aren’t Needed, Let’s Leave Them Out Completely.”

<sup>25</sup> See El-Sabawi, “A Model Act for a Behavioral Health Crisis Response Team.”

<sup>26</sup> Not only must these individuals be included in the discussions, they must participate in key decision making, including the hiring and training of certified peer specialists, dispatch personnel, and other personnel.

<sup>27</sup> SAMHSA Guidelines at 14 (minimum requirements and best practices for crisis call centers), 18 (same for mobile crisis team services), and 22-23 (same for crisis receiving and stabilization services).

of Rochester implement the three-prong program that meets the minimum standards within 45 days. At that time, the city must engage with the community in a comprehensive public education campaign to inform Rochester’s residents of these alternatives. The city also must simultaneously put into place a system to collect input and outcomes data. The data tracked must include the continuum of care provided individuals with a focus less on mere data relating to length of stay and discharge from inpatient settings and more on the data relating to type of care provided, whether that care is successful or not. The city also must ensure that the stakeholders identified above participate in the ongoing implementation, maintenance, and evaluation of the crisis response system. We further request that the city meet the best practices outlined in the SAMHSA Guidelines within 60-90 days.

### 3. Institute Policies and Practices to Assure Full Transparency Surrounding Police-Involved Deaths

Public reporting has highlighted a serious problem contributing to public outrage over Mr. Prude’s death: a complete lack of transparency around police-involved deaths in Rochester and what appears to have been a concerted effort to conceal information about Mr. Prude’s death. According to a recent *New York Times* article, for instance, the Rochester Police Department issued no public announcement of Mr. Prude’s death, body-camera footage was withheld, Police Department officials worked to obstruct a response to a FOIL request from Mr. Prude’s family, and the police chief provided materially incomplete—and thus misleading—information to the mayor about the circumstances of Mr. Prude’s death.<sup>28</sup>

Police accountability is impossible without transparency. While we recognize that certain aspects of criminal investigations are sensitive and need to remain confidential at the outset, it is imperative that Rochester commit to release as much information as possible as fast as possible about police-involved deaths. And to address the problem of police officials manipulating the process and information about police-involved deaths, the City must move responsibility for releasing information from the Police Department to the Mayor’s Office and the Office of Corporation Counsel. To accomplish this, we urge Rochester to implement the following reforms:

- **Immediate Public Announcement of Any Police-Involved Death.** The Police Department should be required to report immediately to the Mayor’s Office and Office of Corporation Counsel any instance of a police-involved death. Within 4 hours of the death, the Mayor’s Office should be required to issue a public announcement of the death, including the basic circumstances of the death, the name(s) and rank(s) of the officer(s) involved in the incident, and the name of the civilian who died.
- **Prompt Release of Body-Camera Footage.** In any police-involved death, the Police Department should be required to produce to the Office of Corporation

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<sup>28</sup> Michael Wilson *et al.*, “Daniel Prude’s Death: Police Silence and Accusations of a Cover-Up,” *New York Times* (Sept. 4, 2020), accessible online at: <https://www.nytimes.com/2020/09/04/nyregion/rochester-police-daniel-prude.html> (last updated Sept. 10, 2020). See also Hannah Knowles *et al.*, “Police Are Using the Law To Deny the Release of Records Involving Use of Force, Critics Claim,” *The Washington Post* (Sept. 25, 2020), accessible online at [https://www.washingtonpost.com/national/police-are-using-the-law-to-deny-the-release-of-records-involving-use-of-force-critics-claim/2020/09/25/6b42e74a-f9c1-11ea-a510-f57d8ce76e11\\_story.html](https://www.washingtonpost.com/national/police-are-using-the-law-to-deny-the-release-of-records-involving-use-of-force-critics-claim/2020/09/25/6b42e74a-f9c1-11ea-a510-f57d8ce76e11_story.html).



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Counsel all body-camera footage of the incident within 4 hours of the incident. Within 24 hours of the death, the Office of Corporation Counsel should be required to post on a publicly-available website all such footage, redacted only to protect the privacy of the person who died.

- **Transfer of FOIL Responsibility from the Police Department to the Office of Corporation Counsel.** Any FOIL request received involving a police-involved death should be handled not by the Police Department but by the Office of Corporation Counsel. Upon receipt of any such request by Rochester, the Police Department should be required to provide all responsive records to the Office of Corporation Counsel, which then would be responsible for handling all aspects of the FOIL request.
- **Public Release of All Investigations into Police-Involved Deaths.** Rochester should be required to release publicly all investigative reports into police-involved deaths within 7 days of completion of the investigation, regardless of the identity of the agency conducting the investigation.
- **Annual Reports About Police-Involved Deaths.** By March 31 of each year Rochester should release publicly a written report providing information about all police-involved deaths that occurred in the prior year. These reports should provide detailed information about the circumstances of the death, any investigation into the death, any discipline imposed, and any reforms undertaken to policies and procedures, training, supervision, or reporting.<sup>29</sup>

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Given the seriousness of the situation, we ask that you respond to this letter and provide us with an update of the actions you are taking in response thereof by no later than October 12, 2020.

Sincerely yours,

Donna Lieberman  
Executive Director



Iman Abid-Thompson  
Genesee Valley Chapter Director



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<sup>29</sup> For an example of this type of report, see the one produced by the New York City Police Department. "Annual Firearms Discharge Report," *New York City Police Department: Office of Management Analysis and Planning* (2015), accessible online at: [https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/firearms-discharge/annual-firearms-discharge-2015.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/firearms-discharge/annual-firearms-discharge-2015.pdf).



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