

OFFICE OF THE
DEMOCRATIC MINORITY



NASSAU COUNTY LEGISLATURE
THEODORE ROOSEVELT EXECUTIVE & LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE
MINEOLA, NY 11501

March 26, 2021

Hon. Letitia James
Attorney General – State of New York
The Capitol
Albany, NY 12224-0341

Re: Nassau Regional LEMIO

Dear Attorney General James:

We write today to formally request the creation of a regional Nassau County branch of the Law Department’s Law Enforcement Misconduct Investigative Office (LEMIO), as well as allocation of a sufficient level of funding in the FY 2021-22 budget of the Department of Law to ensure its establishment in the upcoming fiscal year.

Such an office would be established in Nassau County for the purpose of receiving complaints regarding alleged police misconduct from residents and interested organizations, accepting referrals of alleged misconduct from “mandated reporters” in the Nassau County Police Department, and exercising such other powers conferred upon LEMIO under Executive Law section 75.

Our request to you is a direct outgrowth of the process recently undertaken in Nassau County, pursuant to the Governor’s Executive Order 203. In response to this directive, the Nassau County Legislature, on March 22, 2021, voted to approve an iteration of a police reform and reinvention plan. Stemming from our belief that this plan lacks the structural reforms needed to eliminate historic racial inequities and disparities in policing that continue to harm and compromise communities of color, we were unable to vote in support of this plan.

Paramount in our decision to cast disapproving votes on the Nassau County plan was the failure to include in it any local third-party agency, authority, or office empowered to provide independent oversight of alleged police misconduct. The plan does not incorporate recommendations to establish a civilian complaint review board or creation of an independent office of police inspector general (as outlined in a March 11, 2021 letter, enclosed herewith for your reference). In addition, the plan failed to embrace alternative approaches to oversight, such as empowering a local County human rights agency (Suffolk County, N.Y.) or creating a third-party police complaint hotline for

the purpose of recording and transmitting complaints and expanding the scope of a local ethics board to review police misconduct complaints (Hempstead, N.Y.). Such localized initiatives would be helpful to LEMIO in delivering the level of investigatory, review, and oversight resources required in a large, diverse, and densely populated jurisdiction such as Nassau, with a police force of over two thousand members strong.

Instead, the County's plan relies entirely upon the Law Department's LEMIO as the sole means to provide independent oversight of policing in Nassau County. In fact, in their presentation to our County Legislature, the Nassau County Police Commissioner and his top staff expressly cited the existence of LEMIO as a reason to reject proposals for the inclusion of independent local oversight in Nassau's plan. While we have no doubt that the LEMIO will fulfill its statutory mission in an exemplary fashion, we also appreciate the significant challenges the office will face, considering the breadth of that mission and the LEMIO's apparent responsibility for overseeing more than five hundred police departments across the state. This being the case, we believe the County's plan to rely exclusively on LEMIO can only be effective if resources are specifically targeted to the oversight of policing in Nassau County, on an ongoing basis.

Accordingly, it is our view that the best way to ensure effective oversight in our County is to establish a regional office dedicated to Nassau. In the absence of targeted state resources, Nassau County's approach appears destined to result in a level of third-party oversight which will prove inadequate to meet the needs and expectations of the community.

This belief is further underscored by the County's declared intent to make the use of officer-worn body cameras a cornerstone of its efforts to promote officer accountability. While we favor the use of this technology as a best practice in law enforcement and have advocated since 2014 to bring body cameras to Nassau County, they alone are not a panacea for officer misconduct and abuse. That fact was illustrated in gruesome detail on May 25, 2020 when former Minneapolis PD Officer Derek Chauvin pressed the life out of George Floyd by kneeling on his neck. He did so with the awareness that bystanders – and crucially, officer-worn body cameras – were capturing the eight minutes and forty-six seconds that will forever live in infamy.

On the local level, the current paucity of external review resources has tremendous consequences in real life for Nassau County residents. *Newsday* recently chronicled the experiences of Bobby Hayes, a resident of the Village of Hempstead, who was arrested upon being accused of disorderly conduct. Sworn statements by the arresting officers alleged that Mr. Hayes resisted arrest and threatened their lives. Those claims resulted in Mr. Hayes being “shackled and held in 23-hour-a-day lockup for more than a week,” *Newsday* reported. However, a video recorded by an eyewitness to the arrest proved the officers' allegations to be fabricated, resulting in the dismissal of all charges in the case.

Appropriate third-party oversight (provided by a civilian complaint review board or similarly empowered entity) could have created a structure that discouraged Mr. Hayes' wrongful arrest in the first instance and provided a vehicle for discipline of the officers involved if it did not. According to court documents cited by *Newsday*, prior to Mr. Hayes' arrest in late January 2014, the two officers “had been the subject of a combined 29 civilian complaints and internal affairs investigations dating back to 2004”. With the benefit of third-party oversight, the officers in the Hayes case would have been subject to external scrutiny and, potentially, corrective actions by the Department. However, this has not yet occurred. To date, there is no evidence of any investigation

into the matter, and there is no third-party agency that has the standing or resources to conduct such a probe. This, in our view, must change.

The Hayes case and many others clearly illustrate the need for robust, independent, third-party oversight of law enforcement agencies and their practices. In keeping with Nassau County's intended reliance on LEMIO oversight, as articulated in its police reform plan, it is our belief that our residents would benefit profoundly from resources of the Department of Law being devoted to the establishment and operation of a regional LEMIO office dedicated to Nassau County.

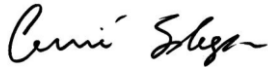
Sincerely yours,



Kevan M. Abrahams
Nassau County Legislator – 1st District
Minority Caucus Leader



Siela A. Bynoe
Nassau County Legislator – 2nd District



Carrié Solages
Nassau County Legislator – 3rd District

cc: Hon. Andrew M. Cuomo, Governor
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