MEMORANDUM

TO: Elizabeth Pauli, City Manager
           Michael Ake, Chief of Police

FROM: 21CP Solutions

DATE: January 29, 2021

RE: Overview of Preliminary Recommendations

This memorandum summarizes 21CP's preliminary recommendations based on its work to date. This document is intended to provide a preliminary overview of where 21CP's evaluation is heading – and what will receive a fuller treatment and explanation in the context of 21CP's upcoming final report.

To date, 21CP has reviewed TPD policies, case files, data on officer and department activity, and engaged with Tacoma's diverse communities in a variety of contexts, including listening sessions and targeted outreach. We have also conducted extensive interviews within the police department itself. A full accounting of 21CP's methodology will be provided in a comprehensive, final draft, which is forthcoming.

At this time, the work of 21CP is continuing. Additional engagement with the police department on issues of procedural justice and equity, inclusion, and diversity remains underway. Additional recommendations are also likely following completion of 21CP's review of use of force incidents, misconduct investigations, and TPD aggregate data across several dimensions. 21CP will provide the City with a final report by March 15, 2021. Importantly, this report will contain substantial discussion of analyzed data; the rationale for recommendations; examples of promising and best practices that TPD should adopt; and important takeaways from 21CP's numerous stakeholder focus groups, interviews, and discussions. <u>This current document only presents 21CP's overall preliminary recommendations, not the data, information, evidence, and rationale supporting them – which 21CP's final report will provide.</u> Recognizing that many of these recommendations are high-level, this report is provided for the purposes of transparency and in response to the sense of urgency among City officials and stakeholders to move forward with making improvements to TPD and the system of public safety in Tacoma.

AREA 1: COMMUNITY ENGAGEMENT & PARTICIPATION

Recommendation 1. The role of TPD in helping to promote community safety needs to be specifically and clearly defined – such that all TPD personnel and community members understand their individual roles.

Recommendation 2. TPD's approach to collaborating with the community, responding to community needs and issues, and fostering community relationships should be specifically memorialized in a written, strategic plan (the "Community Safety Plan"[1]) accessible to both community and police personnel.

Recommendation 3. TPD should develop training for all personnel that reflects and furthers the goals of the Community Safety Plan. Diverse representatives of the Tacoma community should be involved in both the development and implementation of such training.

Recommendation 4. The Community Safety Plan needs to establish a specific strategy for engaging people experiencing homelessness and those living in encampments.

Recommendation 5. TPD should continuously evaluate how effectively it is fulfilling its roles and responsibilities, as set out in the Community Safety Plan, that can be regularly presented to both members and the community through various engagement efforts.

Recommendation 6. As part of the Community Safety Plan, TPD should consider creating a problem-solving database reflecting the methodologies strategies, and/or steps that were utilized to resolve the problems.

Recommendation 7. TPD needs to enhance its outward-facing communication efforts to reflect and promote the Community Safety Plan.

Recommendation 8. TPD should identify and properly resource liaisons for residents whose specific backgrounds, identities, or characteristics set the occasion for specific needs.

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[1] The purpose of the Community Safety Plan is consistent with the City of Tacoma's Resolution 40622, which affirms the City's commitment to improving existing public safety systems for all community members. The overall goal is to uncover community needs and expectations regarding what public safety is and how it can best be achieved, set public safety priorities based on those expectations, and then ensure City and TPD responses that are consistent with those expectations. There are different ways of approaching the crafting of a Plan, but, at its core, the Community Safety Plan should outline a comprehensive, multidisciplinary approach to public safety, recognizing the intersection of public health, community well-being, and public safety. The Plan should coordinate City resources strategically but must be guided by community expectations.

I.	USE OF FORCE

A.   Policy

    1. *Officer Use of Force*

Recommendation 9. TPD should revise its use of force policies to make clearer to officers when force is and is not authorized.

Recommendation 10.   **TPD's Use of Force Policy should better define and explain the requirement that force be used only when necessary.**

Recommendation 11.   **TPD should revise and expand its treatment of de-escalation in its Use of Force Policy.**

Recommendation 12.   **Consistent with the concepts of de-escalation and necessity, TPD should consider expressly requiring that officers exhaust all other means reasonably available to them under the circumstances before using deadly force.**

Recommendation 13.   **TPD policy should require that officers provide verbal warnings, when feasible under the circumstances, to subjects before using any type of force.**

Recommendation 14.   **TPD policy should expressly address the concept of proportionality and specifically indicate that all force must be proportional to the nature of the threat that a subject poses under the circumstances.**

Recommendation 15.   **TPD should substantially revise its treatment of the core concept of "objective reasonableness."**

Recommendation 16.   **TPD policy should explain that force may be used to help serve a lawful purpose.**

Recommendation 17.   **TPD policy should specifically prohibit various problematic types of force:**
   - a. **Techniques and/or modes of transport that run a substantial risk of positional asphyxia.**
   - b. **Shooting from (in addition to at) moving vehicles.**
   - c. **Prohibit specific types of force that are virtually never consistent with the core concepts of reasonableness, necessity, and proportionality, unless a reasonable**

officer under the circumstances would determine that deadly force was authorized:

- Use of force to subdue a subject(s) who is not suspected of any criminal conduct, other than to protect an officer's or another person's safety, including against individuals who are solely engaged in exercising their First Amendment rights or solely to protect property.
- Use of retaliatory force.
- Use of force against subject(s) who only verbally confront officers and are not involved in criminal conduct because such subjects pose no immediate threat or danger to officers or others.
- Use of force against subject(s) who are handcuffed or otherwise restrained, as the threat that the individual could pose has been dramatically reduced, if not eliminated, because of the restraint.
- Use of force to overcome only passive resistance.
- Use of firearm as an impact weapon.
- Firing of warning shots.
- Use of head strikes with hard objects.

Recommendation 18.   TPD should consider having policies, or at least policy sections, that specifically and separately address any and all less-lethal instruments or techniques that it authorizes.

Recommendation 19.   TPD's Use of Force Policy should include much more specific guidance to officers on the use of Tasers (CEWs). This includes, among other things:

- Limiting the use of CEWs to three, standard five-second cycles, with individual cycles separately justified in use of force reporting.
- Prohibiting the use of CEWs in "drive stun" mode.
- Prohibiting the use of CEWs against individuals who:
  - Could fall and suffer impact injuries to the head or other sensitive areas;
  - Are located on elevated or unstable platforms (e.g., vehicles, trees, roofs, ladders, ledges, cranes, loading docks, and stairs);
  - Are running;
  - Are operating a vehicle or machinery;
  - Are located in water, mud, and or marsh environments if the ability to move is restricted;
  - Are located in the proximity of potentially flammable materials; or
  - Are physically infirm.

- **Prohibiting the use of CEWs against any individual who is handcuffed or otherwise restrained**, rather than, as in current policy, only "[w]hen *a prisoner* is handcuffed."[2]

Recommendation 20. TPD's general use of force policy and its specific firearms policy should better address issues involving exhibiting and pointing firearms.

Recommendation 21. TPD's Use of Force policy should include provisions that better ensure the safety of other officers and bystanders when officers use firearms.

Recommendation 22. TPD policy should eliminate reference to certain "enforcement electives" as "use of force" responses or tools, including "search techniques, "opposite sex searches," "frisk techniques," and "transport controls" – all of which refer to various enforcement-related concepts that are separate, and distinct, from use of force considerations.

Recommendation 23. TPD should more concretely articulate a requirement that officers must render and/or request medical assistance when necessary after force is used.

Recommendation 24. TPD policy should ensure that officers report potential misconduct related to force to Internal Affairs and/or a supervisor.

Recommendation 25. TPD policy should impose a duty on officers to intervene when they observe other officers running a reasonable risk of violating the Department's use of force policy. Current language on the "duty to intercede" is insufficient.

Recommendation 26. TPD policy should ensure that officers report potential misconduct related to force to Internal Affairs and/or a supervisor.

2. Use of Force Reporting

Recommendation 27. TPD policy should require that officers report any and all uses of force by providing a detailed use of force narrative and key data.

Recommendation 28. TPD policy should better outline what officers must describe and articulate in narratives regarding the use of force.

3. Use of Force Investigation & Review

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[2] TPD Policy Manual Sub-Section 3.1, P3.1.4(C) (emphasis added).

Recommendation 29. TPD should review and/or investigate all uses of force, regardless of type or severity. Specific procedures and guidelines should be articulated for the conduct of post-force investigation and review.

Additional recommendations regarding force investigation and review will be forthcoming pursuant to 21CP's ongoing use of force incident file review.

2. Training

Recommendation 30. TPD should ensure that its annual use of force training is sufficient in quantity and scope to allow a focus on use of force decision-making and de-escalation strategies.

Recommendation 31. To the extent that regular, dynamic use of force skills and decision-making training requires additional resources or training personnel, the City and TPD should consider prioritizing this type of professional development.

3. Performance

Additional recommendations regarding force investigation and review will be forthcoming pursuant to (1) the ongoing use of force incident file review, and (2) 21CP's ongoing review and analysis of TPD aggregate data on use of force.

II. BIAS-FREE POLICING

Recommendation 32. TPD should clarify that its policies relating to bias and discrimination, including prohibited conduct, apply with equal force while working on-duty during a City shift, during secondary employment, and while off-duty.

Recommendation 33. TPD should revise and expand its policies on Bias-Free Policing to address the identification and engagement with institutional and systemic disparities.

III. STOPS, SEARCHES, AND ARRESTS

Recommendation 34. TPD should substantially revise and expand its current policy manual to address, in detail, the conduct of stops, searches, and arrests.

Recommendation 35. TPD should provide detailed training on non-voluntary encounters between police and members of the public – including stops, searches, and arrests.

Recommendation 36. TPD officers should be required to document and provide information about all non-voluntary interactions. To enhance officer safety, expand the quality of supervision, and to provide meaningful opportunities for the department to understand its overall performance, TPD policy should articulate clear requirements for supervisory review and aggregate analysis of overall trends regarding stops, searches, and arrests.

IV.   CRISIS INTERVENTION

Recommendation 37. The City of Tacoma should explore, with community stakeholders and members, the best, formalized mechanisms for the City to respond to individuals experiencing behavioral health crisis, including mental health, addiction conditions, and other behavioral health challenges. TPD's role in responding to individuals experiencing a behavioral crisis should be meaningfully and specifically defined – and memorialized in departmental policy, systems, processes, staffing, and training.

Recommendation 38. TPD should provide specific policies, procedures, and training to TPD personnel regarding response to individuals experiencing crisis.

AREA 3: ORGANIZATION AND COMMAND STRUCTURES

V.   Organizational Structure

Recommendation 39. TPD should consider adding a rank of Deputy Chief to support the Chief and coordinate the Department's bureaus.

Recommendation 40. TPD should default to civilian positions for job assignments that do not require law enforcement authority and should specifically consider a Chief of Staff or Chief Operating Officer position for administrative management of the department.

Recommendation 41. TPD should invest in structured succession planning across leadership ranks to ensure that the loss or re-assignment of particular individuals does not unduly hamper the Department's performance.

VI.   Resource Allocation

Recommendation 42. In conjunction with the recommendations regarding the creation of a Community Safety Plan, TPD should revisit its organizational structures to ensure strategic consistency and focus.

AREA 4: SELECTION, SUPERVISION, AND SUPPORT OF PERSONNEL

VII.   Training, Education, and Professional Development

Recommendation 43.   TPD should overhaul its general approach to training and professional development to focus on integrated, scenario-based training that uses adult learning techniques and focuses on providing opportunities for officers to practice and cultivate real-world skills.

Recommendation 44.   TPD should expand its training program to encompass the newly-recommended policies – and especially those focusing on Search and Seizure, Crisis Intervention, and De-escalation.

Recommendation 45.   TPD's training function should help to create clear pathways for career and professional development for both sworn and civilian personnel.

Recommendation 46.   TPD should institute an application process for attendance at programs such as the FBI and Naval Academies, and the Senior Management Institute for Police.

VIII.   Supervision & Leadership Development

Recommendation 47.   TPD should revise and update training requirements for each rank, and then follow those requirements in practice.

Recommendation 48.   TPD should explore and formalize partnerships with local academic institutions and the business community that can assist in the design and provision of professional development opportunities for officers.

IX.   Field Training Program

Recommendation 49.   TPD should ensure that all officers assigned to the PTO program have consistent training and supervision.

X.   Early Intervention/Peer Intervention

Recommendation 50.   TPD should assess the effectiveness of its existing EIS and make modifications, as necessary, in conjunction with complementary changes to its officer wellness program.

Recommendation 51. To the extent that TPD maintains the trigger-based EIS system in the future, the Department should revisit the current performance triggers to ensure the system is effectively and efficiently flagging problematic performance.

XI. Officer Wellness & Employee Assistance

Recommendation 52. TPD should centralize the efforts around wellness to ensure a consistent chain of command, no division of focus, and adequate resources.

Recommendation 53. TPD should place responsibility for officer wellness efforts at the executive level to ensure that the systems are fully supported.

Recommendation 54. TPD should continue to develop a structured, consistent resiliency and wellness program for the department, including training, support systems, and department-wide communications.

AREA 5: ACCOUNTABILITY SYSTEMS

XII. Officer Misconduct and Accountability

Recommendation 55. TPD should update its misconduct categories to ensure that they adequately capture the scope of potential officer performance issues. This includes adding categories that address search and seizure and de-escalation.

Recommendation 56. TPD should clearly define the investigative categories in its Complaints policy.

Recommendation 57. TPD should clarify in policy which cases will be handled by Internal Affairs.

Recommendation 58. TPD should ensure that all performance, complaint, and misconduct-related investigations are documented and reviewed by IA for quality control.

Recommendation 59. TPD should consider extending the retention of informal discipline – counseling, verbal warnings, and oral reprimands - beyond one year.

Recommendation 60. TPD should create more detailed investigative policies, procedures, and processes to ensure that investigations are fair, thorough, objectively, timely, and consistent with the principles of procedural justice for both complainant and officer.

XIII.	Complaints System

Recommendation 61.   **The City should change the website to allow anonymous complaints.**

Recommendation 62.   **TPD should require supervisors and officers to carry written materials on how to file complaints.**

Recommendation 63.   **TPD should proactively publish the annual report on complaints.**

XIV.	Independent Oversight

Recommendation 64.   **The City of Tacoma should consider developing an external oversight system as a backstop to ensure comprehensive investigations into misconduct and increase public trust in the accountability systems.**

AREA 6: TECHNOLOGY & DATA SYSTEMS

Recommendations are forthcoming following completion of ongoing aggregate data analysis.