



One City for All People

Metro Human Relations Commission

Executive Board Meeting Minutes

Wednesday, August 15, 2018, from 2:00 PM to 3:30 PM

Offices of the Metro Human Relations Commission

404 James Robertson Parkway, First Floor

The mission of the Metro Human Relations Commission is to protect and promote the personal dignity, peace, safety, security, health, and general welfare of all people in Nashville and Davidson County.

I. CALL TO ORDER: MHRC Chair, Janice Rodriguez

Meeting called to order at 2:06.

Executive Board Commissioners In Attendance: *Janice Rodriguez, Phyllis Hildreth, Marisa Richmond, Oscar Miller*

Other Commissioners In Attendance: *Rev. Davie Tucker*

Others in Attendance: *Mel Fowler-Green*

II. NEW BUSINESS

- Committee reviewed timeline and past recommendations by the Commission related to Title VI and policing and recommendations from the Community Relations Service of the Department of Justice
 - Title VI concern raised and recommendation made nearly 2 years ago; not acted on
 - [Title VI... says that agencies that receive federal financial assistance cannot discriminate on the basis of race, color, or national origin in the provision of services]
 - After community members protested in council chambers, and expressed frustration over what they saw as a lack of opportunity to bring their concerns to Metro government, Vice-Mayor Briley asked the commission to explore options for greater community engagement on these issues
 - Commission asked for guidance from the Community Relations Service of the Dep of Justice; we got recommendations
 - Then-Mayor Barry suggested her office and the MNPd were working with the Policing Project. It is still unclear when that engagement started (no procurement process and the Commission was not involved in the discussions)

- The timing of this suggestion and the lack of transparency around the engagement has understandably made some advocates for police reform distrustful of the project.
- The Exec Board of the Commission believes that a civilian oversight board and the kind of analysis we understand the Policing Project to do can work in harmony – one does not preclude the other.
- The Exec Board generally supports the kind of comprehensive review that Mayor Briley is leading.
- However the Exec Board has remaining concerns and will be closely monitoring the progress. The concerns are:
 - Need to know more about the Policing Project’s approach and goals. Current understanding is that the kind of review that the Policing Project is proposing is a cost-benefit analysis coupled with community engagement, seeking to increase public participation in policy-making. The Commission wants to ensure that any analysis they do clearly addresses the Title VI concerns the Commission raised nearly two years ago.
 - Want to ensure that the Policing Project builds a team that appropriately understands and represents the issues in Nashville, and includes scholarship from HBCUs. Also want to make sure their work is transparent and includes robust and meaningful community guidance.
 - Whether the kind of public involvement in policy-making apparently contemplated by the Policing Project can be implemented with the current leadership. Recent experience suggests that this will be a significant challenge.

III. PUBLIC COMMENT (none).

IV. ADJOURN

Meeting was adjourned at 3:50.

Appeal of Decisions From the Metro Human Relations Commission

If you are not satisfied with a decision of the Metropolitan Human Relations Commission, you may appeal the decision by petitioning for a writ of certiorari with the Davidson County Chancery or Circuit Court. Your appeal must be filed within 60 days of the date of the entry of the Human Relations Commission’s decision. We advise that you seek your own independent legal advice to ensure that your appeal is filed in a timely manner and that all procedural requirements have been met.

If any accommodations are needed for individuals with disabilities who wish to be present at the meeting, please contact MHRC at 615-880-3370 or MHRC@nashville.gov. Requests should be made as soon as possible but at least 24 hours prior to the scheduled meeting in order for the entity to provide such needed aid or service.



One City for All People

November 29, 2016

The Honorable Megan Barry
1 Public Square, Suite 100
Nashville, TN 37201

Melody Fowler-Green
Executive Director

Police Chief Steve Anderson
3055 Lebanon Pike
Nashville, TN 37219

Frank Trew, Chair

Samar Ali

Jeremy Davis

Dave Garrison

Jeff Gibson

Marcela Gomez

Phyllis Hildreth

Aisha Lbhalla

Lethia Mann

Oscar Miller

Abdishakur Mohamed

Avi Poster

Erin Pryor

Ellen Register

Marisa Richmond

Janice Rodriguez

Peter Woolfolk

Dear Mayor Barry and Chief Anderson –

On behalf of the full Metro Human Relations Commission, we write first to thank you both for your thoughtful leadership around issues of criminal justice reform and community policing during a period of significant national conflict. Despite this conflict, Nashvillians enjoy a climate of relative peace and unity as a result of your leadership.

We also write to you as the entity entrusted to ensure that Metro provides services in compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. We have had an opportunity to review the data analysis and report issued by a local grassroots organization on October 25, entitled *Driving While Black: A Report on Racial Profiling in Metro Nashville Police Department Traffic Stops*. During the NOAH townhall held days after the report's release, the Commission was relieved to hear Mayor Barry's commitment to resolve any problems that the report may reflect and stand ready to assist, collaborate, and support in that work. It is in that spirit that we offer a recommendation for further action.

Below we provide a brief overview of Title VI and related laws. Based on this review, we recommend the creation of an independent task force empowered to request and analyze other relevant data, make recommendations, and suggest accountability measures if changes are warranted. The Commission offers its staff resources and expertise and any other assistance we can provide.

We respectfully request a meeting to discuss our recommendation further. We can schedule a meeting with the Executive Board at your earliest convenience. If you prefer to meet with the full Commission, we can offer time at our regular Commission meeting on December 5 or January 2, at 4:00pm. You can contact either of us to schedule.

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Title VI and Related Law

Title VI and its implementing regulations prohibit recipients of federal financial assistance from discriminating on the basis of race, color, or national origin. Title VI provides that no person shall “be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving [f]ederal financial assistance” based on race. 42 U.S.C. § 2000d. The Title VI implementing regulations ban recipients of federal funds from using “criteria or methods of administration” that have an unnecessary disparate impact based on race. 28 C.F.R. § 42.104(b)(2). Failure to comply with these provisions (as determined by the Department of Justice) may result in the suspension or termination of federal funding. *Id.* at § 42.108.

In addition to Title VI prohibitions on discrimination based on race, color, or national origin, other DOJ program statutes include similar and other broader protections. *See, e.g.*, the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c) (prohibiting recipients under the statute from discriminating in both employment and in the delivery of services or benefits based on race, color, national origin, sex, and religion). Like Title VI, the Safe Streets Act proscribes law enforcement practices that cause disparate impact based on race except where such impact is necessary to achieve nondiscriminatory objectives. *See* 28 C.F.R. § 42.203.

Both the DOJ and courts have looked at statistical evidence of racial disparities in traffic stops, searches, and arrests as evidence demonstrating a discriminatory impact on African Americans under Title VI and the Safe Streets Act. *See Chavez v. Illinois State Police*, 251 F.3d 612, 637 (7th Cir. 2001) (“The Supreme Court has long noted the importance of statistical analysis in cases in which the existence of discrimination is a disputed issue.”); *Bradley v. United States*, 299 F.3d 197, 206 n.11 (3d Cir. 2002) (“In profiling cases . . . statistical evidence of discrimination may be the only means of proving a discriminatory effect”); *Floyd v. City of New York*, 959 F. Supp. 2d 540, 661–62 (S.D.N.Y. 2013) (statistical evidence of racial and ethnic disparities in police stop and frisk practices, including post-stop outcomes, proved adverse impact under the Equal Protection Clause); *Melendres v. Arpaio*, No. CV-97092513, 2013 WL 2297173 (D. Ariz. May 24, 2013) (statistical evidence proved that certain patrol operations at a sheriff’s office disparately impacted Latinos); *Maryland NAACP v. Maryland State Police*, 454 F. Supp. 2d 339, 349 (D. Md. 2006) (disparities in stops and searches of African Americans constituted “powerful circumstantial evidence of racial profiling”).

This August, the DOJ found that the Baltimore Police Department violated the U.S. Constitution, Title VI, and the Safe Streets Act, relying in large part on BPD’s own data, including its records on traffic stops and searches. The DOJ also conducted a much more comprehensive review that included, among other things: pedestrian stops, arrests without warrants, internal controls to address misconduct, use of excessive force, and discretionary charges.

Recommendation

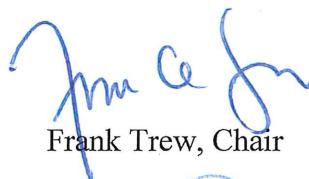
While MHRC has not engaged in a full independent analysis of the underlying data from the recent report, *Driving While Black*, we believe that the report's findings suggest further action is warranted pursuant to Title VI. However, this report alone does not provide the breadth or the depth of analysis needed to guide our collective efforts to ensure compliance with Title VI mandates. Other data would need to be gathered and analyzed to determine if current MNPDP practices have a racially disparate impact and, if so, what measures could be taken to ameliorate and eliminate those disparities while still meeting all MNPDP objectives.

We are aware that constituents have contacted the Department of Justice seeking guidance and intervention. It is our understanding that this was not a formal Title VI complaint. Nor have we received a formal Title VI complaint, although inquiries have been made. Given the mandate of Title VI, and the federal government's expectation for voluntary compliance, the Commission – charged with ensuring Metro Nashville's compliance with Title VI – strongly urges you to take active and immediate steps to ensure that Nashville will determine its own path forward. We, therefore, recommend the creation of an independent task force fully empowered to request and analyze all relevant data, make recommendations, and suggest accountability measures if changes are warranted. One model worth reviewing is the Chicago Police Accountability Task Force created in December 2015.

Given the leadership you have both shown around these issues, we know that you share our concerns about the impact that even the perception of racial disparities can have on community trust. We believe that a fair and independent body can provide open community-wide engagement, maintain trust, and ensure that we dispatch our obligations under Title VI voluntarily.

Thank you again for your commitment to addressing these issues. We look forward to hearing when you are available to meet to discuss this further and to guide the Commission on how we can be of greatest assistance to you.

Sincerely,



Frank Trew, Chair



Mel Fowler-Green, Executive Director

cc: David Briley, Vice Mayor
Jon Cooper, Director of Law

Date: June 30, 2017

To: Melody Fowler-Green, Executive Director
Metro Human Relations Commission
404 James Robertson Pkwy, Suite 130
Nashville, TN 37219

Cc: Steve Anderson, Chief of Police Metro Nashville
Lonnell Matthews, Director Mayor's Office of Neighborhoods and Community
Engagement

Subject: DOJ-CRS Recommendations

Melody,

I would like to thank you for requesting the services of the Department of Justice - Community Relations Service (CRS). Thanks for taking time to arrange all the meetings. Please give my special thanks to **Commissioner Marisa Richmond, Mayor Megan Barry, Police Chief Steve Anderson**, and **Lonnell Matthews** for taking time out of their busy schedule to meet with me. *I have prepared a few recommendations for a strategy approach that could help your Human Relations Commission (MHRC) address police issues in the African American community. Please read below:*

RECOMMENDATIONS

I. Overview

CRS was asked to provide technical assistance to MHRC. The request stemmed from a fatal shooting of Mr. Jocques Clemmons (African American male) by a white Metro Nashville Police Officer. The incident occurred February 10, 2017, and prompted a mass response by the African American community along with other concerned civil rights advocacy and social justice groups. The response included protest marches, demonstrations, and requests to MHRC, the Mayor's Office, City Council, and MNPD Chief of Police to address alleged issues of police racial profiling, excessive use of force, excessive use of deadly force, and excessive traffic stop targeting African Americans, specifically, males. The Mr. Clemmons shooting, in the minds of some Black community members, civil rights advocacy organizations, and local social justice groups, allegedly supports the findings of **Gideon's Army October, 2016 study, titled ("Driving While Black")**. A Vanderbilt Poll conducted by the **"Center for the Study of Democratic Institutions"** in the spring 2017, showed high approval ratings for the police department. The report allegedly polled approximately 1100 people which a high percentage of surveyed African Americans rated MNPD performance high. The outcome of the poll allegedly further escalated tension in the African American community because some community activists, social actions groups, and civil rights advocacy organization allegedly didn't support the outcome expressing concerns that the poll didn't include questions relating to racial disparities in policing.

During CRS' meeting with the Police Chief, he acknowledges that their own analysis of traffic stops showed disparities. The Police Chief alleges that the racial disparities are not bias motivated but a result of increased police presence in alleged high crime neighborhoods

where a high percentage of African Americans reside. The Police Chief explains that his officers are dispatched to high crime area according to a mapping system that *tracks crime* and *requests from the citizens who live in the community*. **The Police Chief expressed his willingness to participate in constructive discussions to identify workable solutions.**

During CRS' meeting with African American community leaders and concerned social justice groups, the question was raised whether MNP "policing techniques" are applied equally the same in the African American community as they are in majority Caucasian/White communities. It appears that African American leaders are very concerned that the alleged high disproportionate racial disparities in searches (consent and probable cause) during traffic stops and use of deadly force will continue to fuel tension in the African American community. It is their perception that the present police culture would continue to use deadly force first as opposed to less-lethal methods when responding to calls in the African American community. They believe if that culture continues, it will eventually fuel some type of violent response from a disgruntled African American community. The African American leaders is of the belief that the Police Department and Mayor's Office are being very complacent on the alleged racial disparities traffic stops issue and if the "complacency" position continues, Metro Nashville could eventually experience civil unrest similar to "Ferguson or Baltimore". The concerned leaders would like the City of Metro Nashville Officials to take an aggressive approach to develop short and long range strategies for reducing the risk of the possibility for civil unrest and develop a contingency plan for intervention if such tragedy occur. African American leaders, concerned civil rights organizations, and the local social justice advocacy groups expressed their willingness to partner with MNP and City Officials to engage in constructive solution dialogues aimed to address the concerns mentioned. Finally, it is the opinion of the concerned parties that it would be beneficial for MNP to consider conducting an overall review of its policing culture (internal, external) to determine what changes might be needed to accommodate the city's future public safety needs.

II. CRS' Site Visit

Upon completing an initial assessment of the conflict, CRS' Senior Conciliation Specialist Walter Atkinson, determined that the conflict is jurisdictional for intervention (*see the attached document titled, "About the Community Relations Service CRS*). CRS was on site, **Thursday, May 18 and Friday, May 19, 2017**. Between the two days, Atkinson met with several stakeholders that included the U.S. Attorney TNMD, the Mayor, Vice Mayor, Police Chief, Director of the Mayor's Office of Neighborhoods and Community Engagement, District Attorney, Public Defender, City Councilmembers, Criminal Court Clerk, Interdenominational Ministers Fellowship, American Baptist College, NAACP Nashville Branch, Urban League of Middle Tennessee, Black Lives Matter Nashville, Nashville Organized for Action and Hope, Justice for Jocques Coalition, a Community Leader for North Nashville, and a concerned local defense attorney. The outcome of the meetings with the various parties help CRS better understand the conflict and the position of stakeholders. After considering all the input from the above stakeholders, SCS Walter Atkinson is suggesting the recommendations listed below for MHRC consideration. I am also including attachments that can be helpful. Please note that **CRS doesn't have investigative or enforcement authority, and don't set blame on any party.** CRS is a **neutral entity** that has the "Congressional

Mandate” to help communities resolve *conflict based on perceived or real acts of discrimination because of Race, Color, National Origin, Gender, Gender Identity, Sexual Orientation, Religion, or Disability. CRS’ work is confidential in nature and discloses information with approval of the parties involved.*

III. The Recommendations – Create Working Groups

The chart below is a list of recommendations for MHRC consider. Attached are a few DOJ, CRS, or other Law Enforcement support resources that can be helpful as MHRC develops strategies to move forward. The recommendations are suggested strategies. Use what you can. I didn’t include “Action Steps”, “Assigned Responsibilities”, or “Completion Dates” that would be the role of the MHRC and other stakeholders. The Chart serves as an “**Approach Guide**”. If you have questions, I can be reached at 617-424-5723 (Boston direct office line) until October 7, 2017. Afterward, I can be contacted back at my Atlanta office; (404.331.6193 direct), (404.379.2735 cell), walter.atkinson@usdoj.gov (email). I hope the recommendations are helpful.

“Can We Risk Not Doing Anything”?

Metro Nashville Police Shooting Conflict “Working Groups”



“It is easy to dodge our responsibilities, but we cannot dodge the consequence of dodging our responsibilities.” Josiah Stamp

Recommendation #1: Conduct A Study On Policing In The African American Community

Strategy	Action Needed	Responsibility (Person/committee/unit)	Completion Date	Resources	Measurable Outcomes
<ul style="list-style-type: none"> • Strategy #1 a. Establish a WG to explore whether the racial disparities in traffic stops could be reduced without reducing or impeding public safety goals; b. Reduce the use of lethal force in non-threatened or situations where the suspect appears to have mental issues; c. Are African American victims of deadly force disproportionately higher than whites during similar traffic stops, if so, why. (What are the contributing factors and what 		MHRC			

<p>can be done to reduce fatalities).</p>					
<ul style="list-style-type: none"> • Strategy #2 Identify a neutral entity to conduct the study utilizing the most cost-effective approach. 					
<ul style="list-style-type: none"> • Strategy # 3 Create an Action Plan to address the appropriate findings by seeking solutions from the African American community (leaders, grassroots community members, ministers, social justice groups, civil rights advocacy groups, youth, etc.) 					

Metro Nashville Police Shooting Conflict “Working Groups”



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Recommendation # 2: Research The Possibility of Developing A Citizens’ Police Advisory Board

Strategy	Action Needed	Responsibility (Person/committee/unit	Comple tion Date	Resources	Measurable Outcomes
<ul style="list-style-type: none"> • Strategy # 1 Establish a WG to explore the feasibility of developing a MNPB “Citizens’ Police Advisory Board” to include how the board should be composed, the minimum requirements to serve on the board, how citizens would be selected, jurisdiction authority, citizens complaint review, and how this board would best be used. 		MHRC			
<ul style="list-style-type: none"> • Strategy #2 Identify community stakeholders to participate on the WG that are racially & Culturally diverse representing MHRC, Mayor’s Office, MNPB, City Councilmembers, NAACP, Urban League, Ministerial Alliances, LGBTQ, BLM, ACLU, Senior Citizens, Civil Rights Advocacy Groups, Public School Districts, 		MHRC			

<p>Neighborhood Community Associations, Chamber of Commerce, Colleges/ Universities, etc.</p>					
<ul style="list-style-type: none"> • Strategy #3 Conduct public dialogues requesting input on police standard operating procedures, complaint process, use of force, citizens' rights regarding search & seizures, improving police-community relations, traffic stops, Community Oriented Policing programs, recruitment, hiring, training, and retaining officers, especially, officers of color, Arabs Muslims Sikhs and LGBTQ cultures. 				<p>*See the attached CRS' City SPIRIT model as an approach.</p>	

Metro Nashville Police Conflict “Working Groups”



“It is easy to dodge our responsibilities, but we cannot dodge the consequence of dodging our responsibilities.” Josiah Stamp

Recommendation #3: A Comprehensive Public Safety Plan

Strategy	Action Needed	Responsibility (Person/committee/unit)	Completion Date	Resources	Measurable Outcomes
<ul style="list-style-type: none"> • Strategy #1 Consider creating a WG to explore the need to develop a Comprehensive Strategic Public Safety Plan to accommodate Metro Nashville’s rapid growth. Consider “What will be Metro Nashville Public Safety Needs the next 5-10 years; What do we want the police culture to look like?” 	MNPD	MHRC		CRS’ City SPIRIT Process	
<ul style="list-style-type: none"> • Strategy #2 Identify key stakeholders, such as, Chief of MNPD, Mayor’s Office, City Councilmembers, MHRC, County & State Law Enforcement agencies, Neighborhood Community Associations, Chamber of Commerce, School District Officials, TN AMAC, Senior Citizens, NAACP, Urban League, Ministerial Councils, 					

Metro Nashville Police Shooting Conflict “Working Groups”



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Recommendation #4: Law Enforcement & Community Training

Strategy	Action Needed	Responsibility (Person/committee/unit)	Completi on Date	Resources	Measurable Outcomes
<ul style="list-style-type: none"> • Strategy #1 1. Establish a WG to explore the possibility of MHRC partnering with CRS to conduct training aimed to address law enforcement-community issues; 2. MHRC partner with MNPD to assess present & future trainings needs for cadets, sworn officers, and support staff in “implicit & explicit bias, cultural professionalism, engaging with the hearing impaired, etc. 		MHRC		Most of CRS’ law enforcement trainings are designed for joint participation by officers & community members. The exception is when it is targets “law enforcement only. (see attachments titled CRS’ Police Trng Modules and the “CRT-FBI-CRS Program Factsheet”.	

Metro Nashville Police Shooting Conflict “Working Groups”



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Recommendation #5: Mediation

Strategy	Action Needed	Responsibility (Person/committee/unit)	Completion Date	Resources	Measurable Outcomes
<ul style="list-style-type: none"> • Strategy #1 1. Explore the possibility of “Mediation”. The objective is to produce a “Memorandum of Understanding” (MOU) prepared by key stakeholders aimed to reach mutual agreement on: <ol style="list-style-type: none"> 1. Defining the underlining conflict issues and identifying solution strategies; 2. A process for how community 	MNP	MHRC		CRS’ City SPIRIT Process	

<p>stakeholders and City Officials would continue future working relationship.</p>					
<ul style="list-style-type: none"> • Strategy #2 Identify key stakeholders to participate in the mediation process, such as, MNPD, Mayor’s Office, City Councilmembers, MHRC, County & State Law Enforcement agencies, Neighborhood Community Associations, Chamber of Commerce, School District Officials, TN AMAC, Senior Citizens, NAACP, Urban League, Ministerial Councils, etc. 					