

**Community Oversight Special Board Meeting
Policy Advisory Report Examining Local Law Enforcement and Federal
Immigration Enforcement Actions**

MEETING MINUTES

Wednesday, April 14, 2020 – 1:30 PM to 2:30 PM

Webex Meeting

1. Call to Order

- **Andres Martinez (Vice-Chair)**, called the meeting to order at 1:30 p.m. The meeting was called for the special purpose of considering a proposed public policy recommendation on immigration.
- **Board Members in Attendance:** *Ashlee Davis (Chair), Andrew Goddard, Jamel Campbell-Gooch, Phyllis Hildreth, Timothy Hughes, Andres Martinez, Matthew Sweeney, and Shawn Whitsell.*
- **Board Members Absent:** *Walter Holloway, Brenda Ross, Adele Lewis*
- **Others in Attendance:** *Jill Fitchard (Community Oversight Board Executive Director), Chris Clausi (Community Oversight Board Assistant Executive Director), Community Oversight Staff.* The meeting was convened by Stephanie Judd (of Metro IT). The meeting was publicly broadcast contemporaneously.

2. Establish Quorum/Reading of Appeals Statement

- A quorum was established for the meeting and Vice-Chair Andres Martinez read the appeals statement.

3. Electronic Meetings Update

- Todd Pinckley explained that Governor Lee declared a state of emergency on March 12th, 2020 and implemented Executive Order 16. Executive Order 16 allows Boards to hold electronic meetings without a physical quorum during the Coronavirus Pandemic, to ensure the safety and welfare of Tennesseans. A motion must be made to conduct today's meeting.
- Matt Sweeney moved to approve the electronic meeting. Andrew Goddard provided a second on the motion. The electronic meeting was unanimously approved.

4. Policy Advisory Report Examining Local Law Enforcement and Federal Immigration Enforcement Actions

4813-9919-6604v2

9500010-002925 05/16/2020
4827-7475-9114v1

9500010-002925 09/04/2020

- Liz Orozco presented the proposed Policy Advisory Report Examining Local Law Enforcement and Federal Immigration Enforcement Actions. Based on the Board’s request the original draft report was split into two separate parts. The first part was presented as a proposed report and includes four recommendations. It is anticipated that the second part of the original draft report will be presented later as a separate proposed policy recommendation.
- Liz Orozco thanked those that attended the public meeting held on January 9, 2020. Positive feedback was received from community members and organizations. The community feedback was reviewed and discussed:
 - **The timeline for response to and implementation of the recommendations.** There is no definitive timeline for a MNPDP response to the Board’s policy recommendations; rather under the MOU between the COB and MNPDP, the Department is required to respond within a reasonable amount of time. Other agencies mentioned in the report, such as the Emergency Communications Department (ECD) are not currently required to respond to recommendations made by the COB, although it is hoped they can be encouraged to do so.
 - **The translation of COB reports into other languages.** The MNCO is considering options and resources for the translation of the policy advisory reports, along with how to further engage the immigrant communities during the public engagement of its policy proposals.
 - **Language.** Final feedback revolved around making the report inclusive to all immigrants and language sensitivity. Changes were made to the language in the report for inclusivity.
- The Policy Advisory Report examines the following three items in proposing policies for the MNPDP.
 - Any policies that MNPDP has relating to interactions with federal immigration enforcement officers and federal immigration actions.
 - Training that MNPDP staff receive regarding federal immigration enforcement, including jurisdiction, types of warrants, identity documents, and civil rights.
 - The number of times ICE agents have requested assistance from MNPDP, the outcome of those requests, and the amount of Metro resources expended on these requests.
- To develop the report, the following items were reviewed: media reports related to immigration enforcement in Nashville, academic research on local police and immigration enforcement, the MNPDP policy manual, training information, incident and CAD reports involving MNPDP officers that responded to a call from ICE, and interviews with community leaders and members who work with or advocate for immigrants and refugees.

- The report has three sections that review relevant immigration policies in Nashville, in the State of Tennessee, and the Federal level. The first section provides federal, state and local immigration background. The second section includes findings about MNPDP policies, training, and procedures relating to Immigration Enforcement actions within Davidson County. The third section includes recommendations to improve MNPDP policies, procedures and trainings related to immigration enforcement. Examples are included of actions being taken by other cities.
- Liz Orozco discussed MNPDP's role in determining who will be issued a citation or arrested and transferred to the Sheriff's Office for booking. That decision is left to the individual officer involving misdemeanor crimes. Liz Orozco also discussed that the place of birth field on MNPDP forms was used under the 287G program. The form would then be used by MNPDP booking personnel to flag people for immigration questioning. It was discovered during interviews that while the form is no longer active, officers still use the place of birth field to ask about immigration status. Upon booking at DCSO, booking information is sent to the federal government including ICE, then can issue detainers to continue DCSO jail custody of an individual or to take them into custody.
- In the MNCO investigation of these immigration issues, it requested records from the Department of Emergency Communication (ECD) and MNPDP related to calls made from ICE for MNPDP assistance. Both departments reported having no records. MNCO was only able to obtain information from three high profile incidents that occurred in 2019 and information on how many officers responded to those specific calls and the times those officers were actually dispatched. An overview was provided of those 3 cases.
- Todd Pinckley reviewed the report and recommended a statement being added to the report specifically identifying that the recommendations are not meant to prevent local law enforcements from performing duties required of them under the law nor would they be in violation of Tennessee Code Annotated §7-68-102. Recommendations are designed to improve training or enhance relationships between immigrant communities and MNPDP and to encourage reporting and tracking of any Metro resources used to provide assistance to ICE and the Federal government within Davidson County.

The Four Policy Recommendations Presented

- Recommendation #1, MNPDP should create and implement a training policy clearly identifying acceptable forms of US and foreign issued ID which would allow issuing citations rather than arrest for misdemeanor offenses under Tennessee code § 40-7-118. This recommendation would help to build trust within the immigrant community, alleviating some fear of police interaction.

- Recommendation #2, MNPB should create and implement policies that will discourage MNPB officers from asking about immigration or citizenship status. Should an officer ask for the status, they should document their justification in their report narrative. This recommendation is consistent with MNPB's stated policy that "immigration status is not a relevant consideration in interactions with immigrants." MNPB officers have no reason to inquire otherwise or consider immigration status in the performance of duties. Community members state however, that MNPB officers do ask about immigration status which spreads fear among Nashville's immigrant community and serves no purpose.
- Recommendation #3, MNPB should create and implement training on the difference between administrative and judicial warrants and what ICE can and cannot do while conducting immigration enforcement. ICE administrative warrants do not provide a basis for local law enforcement officers to arrest and detain individuals since they have not been reviewed by a judge and are for civil immigration arrests. The ICE warrants do not satisfy the requirement of the 4th Amendment. Local detention based on an ICE warrant may violate the 4th Amendment and could constitute false imprisonment. Local law enforcement should understand the difference and know how to identify warrants, especially when responding to ICE calls for assistance. The distinction the two types of warrants should be noted in MNPB's policy manual, as other police departments in the country have done.
- Recommendation #4, The Department of Emergency Communications and MNPB should document and track federal immigration calls for MNPB or first responder assistance. By keeping track of these incidents, the Metro Government can better assess community impact and track resources that are expended during these requests.
- MNCO found there was a lack of official MNPB policies and training related to Federal Immigration Enforcement and Immigrant rights in Nashville and Davidson County.
- Member Martinez asked for clarification regarding whether each policy required separate consideration and a vote? Liz Orozco advised that the policy would be considered as a whole, and but that recommendations would be separated and voted on individually if requested by the Board. Member Sweeney confirmed Ms. Orozco's statement as consistent with the Board's recently adopted rule for consideration of policy proposals.
- Member Campbell-Gooch asked about gaps in the research, and what part-two of the Policy Advisory Report would reveal? Liz Orozco advised that immigration part two is currently being drafted and will address the other recommendations from the original report which were not as time sensitive and may address other issues as well, all focusing on community interactions with the police and language barriers.
- Member Goddard recommended several clarifying language changes in the proposed policy recommendation report.

- Member Sweeney moved that the policy proposal with the four recommendations be approved as proposed with the recommended language revisions requested by Member Goddard. Member Hughes provided a second. The motion was unanimously approved.
- Dr. Hildreth thanked Liz Orozco, MNCO staff and the Policy Committee for their hard work on the policy.
- Director Fitchard also thanked Liz Orozco and Peter Vielehr for their hard work on the policy. The Board members were reminded of the Executive Team Meeting on April 17, 2020 from 1:00-2:00 pm, with invitations being emailed today. The COB Board meeting will be held on April 22, 2020 from 3:00 pm -5:00 pm.

5. Adjourn

Member Martinez moved to adjourn the meeting with Member Hughes, providing a second. The motion was unanimously approved. The meeting adjourned at 2:14 pm.

Approved by the Board at COB meeting 5/27/20

/s/ Matt Sweeney 9/4/20
Secretary