

Community Oversight Board Meeting
MEETING MINUTES
Wednesday, May 27, 2020 – 4:00 PM to 6:00 PM

WebEx Meeting

1. Call to Order

- **Ashlee Davis (Chair), called the meeting to order at 4:00 p.m.**
- **Board Members in Attendance:** *Ashlee Davis (Chair), Andrew Goddard, Jamel Campbell-Gooch, Phyllis Hildreth, Walter Holloway, Timothy Hughes, Adele Lewis, Andres Martinez, Brenda Ross, Matthew Sweeney, and Shawn Whitsell.*
- **Board Members Absent:** NA
- **Others in Attendance:** *Jill Fitchard (Community Oversight Board Executive Director), Chris Clausi (Community Oversight Board Assistant Executive Director), R. Todd Pinckley (Community Oversight Legal Advisor), Stephen Martini (Emergency Communications Center Executive Director), Community Oversight Staff. The meeting was publicly broadcast contemporaneously.*

2. Establish Quorum/Reading of Appeals Statement

- A quorum was established for the meeting and Chair Davis read the appeals statement.

3. Electronic Meetings Update

- Todd Pinckley explained that due to the occurrence of the COVID-19 pandemic, a vote was needed pursuant to Governor Lee’s Executive Order 16 and Executive Order 34 to conduct the following Community Oversight Board (“COB”) meeting electronically.
- Executive Order 34 extends Executive Order 16 through June 30, 2020.
- Andrew Goddard moved to approve the electronic meeting. Andres Martinez provided a second on the motion. The electronic meeting was unanimously approved.

4. Approval of the Minutes

- Phyllis Hildreth moved to approve the April 14, 2020, and April 22, 2020 minutes. Andrew Goddard provided a second on the motion. The April 14th and April 22nd minutes were unanimously approved.

5. Chair Remarks

- Chair Davis stated that the Executive Committee met the previous week and all COB agenda items were discussed.
- Chair Davis stated that she would yield to Director Fitchheard's report for updates, but if items necessary for discussion did not appear on the agenda, the Executive Committee should use this forum to discuss those.

6. Department of Emergency Communications

- Director Fitchheard introduced the Director of Emergency Communications, Stephen Martini, and thanked him for speaking to the Board.
- Director Martini discussed the partnership between the two entities and provided his work experience.
- Director Martini provided the definition of high priority, low-frequency incident notifications and explained how the operations team handles notifications. The Department of Communications is currently working with a generated dispatch vendor to streamline the notification process by configuring the current software or providing a new solution.
- Chair Davis welcomed and thanked Director Martini for speaking to the Board and provided the opportunity for questions.
- Member Sweeney asked whether it is feasible to introduce new or updated software in light of current city and budget issues or should another option be considered to ensure notifications are provided before the software fix? Director Martini stated he is working with the Emergency Communications supervisors to make them aware of what incidents the Board expects to be notified. The surcharges from 911 calls help to fund and support technology needs, and this surcharge is not impacted by the city's economic challenges.
- Member Sweeney asked about access to ECD records and if there is a law that makes the records or recordings confidential? Director Martini stated there are HIPAA regulations to remove patient information in a medical incident. Also, any incident with an active or ongoing investigation will be held per law enforcement.
- Member Sweeney asked if a call comes in ten minutes from now, is the record confidential as you receive it before anything else has happened? Director Martini explained that during the request process, the recording is pulled and sent to the appropriate department and DEC inquires whether an active or open investigation prevents a public release. If there is no delay, it is sent to the requestor, media, or the attorney's office.

- Member Sweeney asked if the request process was policy or a matter of law? Director Martini stated it is a matter of law and is consistent across the four Public Safety Communications Centers in the state of Tennessee.
- Member Sweeney asked if Director Martini saw the Public Policy Advisory Report with the recommendation involving ECD, that was issued a month ago by the Board and if Director Martini has seen this recommendation, when would he respond? Director Martini explained that he had not reviewed the document but will make it a priority if action needs to be taken.
- Member Sweeney stated although no action is needed, he would like a response to the recommendation. Director Martini will read the recommendation and respond to Director Fitchard by the end of the week.
- Member Campbell-Gooch asked about the limitations on open cases; specifically, whether law enforcement will be denied if they ask for a specific record? Director Martini stated that law enforcement would not be denied. Member Campbell-Gooch explained that it is difficult to hold law enforcement accountable if the board does not have access to the same materials.
- Member Campbell-Gooch asked would it be easier to have a generic notification requirement. Director Martini stated that there is a notification list in place that was provided by Director Fitchard for certain events.
- Member Campbell-Gooch stated that he would like to see the notification process become timelier. Member Campbell-Gooch asked Board members if an MOU was in place that discussed records to define the relationship for future Board members and staff? Director Martini stated there is not an MOU between Emergency Communications and the Community Oversight Board or any other city departments. Director Martini stated that he hopes to work together without restrictions and does not see the need for an MOU.
- Chair Davis thanked Director Martini for his participation.

7. Executive Director Report

- Director Fitchard provided highlights from her written report to the Board.
 - ❖ Telecommuting will continue through the end of the month. Director Clausi joined a meeting with other Metro Department Heads and Elected Officials, hosted by Kristin Wilson of the Mayor's Office, to get more information on the next steps towards
 - ❖ opening Metro's non-essential offices. Director Fitchard and Assistant Director, Christopher Clausi are working towards creating a safe plan of

action to reopen the MNCO office in the coming months with guidance from the Metro Human Resources office and input from the COB.

- ❖ MNCO staff participated in training opportunities with oversight practitioners from across the country.
- ❖ MNCO Community Liaison created a public survey (for internal use) to gain information from the community about their overall thoughts on the COB. Most participants think the COB is good for Davidson County. The concerns voiced in the survey on policing, involved proper training and fair oversight without political and/or anti-law enforcement agendas. Other concerns listed in the survey were the lack of officers for the growth in the city, not having authentic community engagement, the prevention of racial profiling and harassment by the police, and the promotion of true community policing to have better relations between the police and community, especially within communities of color.
- ❖ Member Campbell-Gooch asked how the survey was constructed? Director Fitchard stated the survey was a questionnaire that consisted of thirteen questions that revolved around constituents and their policing experience. The questions were rated one through five. Other questions had to be written out relating to the individual's experience with the police.
- ❖ The department will continue to find ways to connect with the community while telecommuting.
- ❖ The MNCO continues to receive calls from the public to initiate complaints of alleged misconduct by MNPd officers. The MNCO has received a total of six investigative complaints since its April Board meeting and assisted with twenty non-complaint calls for service as of May 22. Three investigations are pending and have not been added to the list. Non-complaint calls come from the media, Nashville residents, or people needing information or referrals to other departments.
- ❖ On Monday, May 11, Director Fitchard received a message to contact the Nashville Scene writer, Steven Hale. Director Fitchard spoke to Mr. Hale who provided information regarding Mr. Gabriel Hines who died while in DCSO custody on February 9th, 2020. Mr. Hine's co-defendants alleged MNPd used excessive force against Mr. Hines.
- ❖ Director Fitchard was not notified by MNPd or the DA that an in-custody death had occurred, nor did she receive notification of the allegation of excessive force during the arrest of Mr. Hines. The case was referred to the Tennessee Bureau of Investigation ("TBI") by DA General Funk and is currently being investigated.

- ❖ The Executive team met to discuss MNCO's jurisdiction and authority to investigate in-custody deaths that occur while a person is in DCSO custody. The Executive Committee met on Monday, May 18, and discussed the issue. The Committee agreed that allegations of excessive force by MNP—connected to the death of an individual—gives MNCO jurisdiction to investigate the incident.
- ❖ On Friday, May 22—DA Funk gave Director Fitchard, Assistant Director Clausi, and Legal Advisor Pinckley a brief update of the case and said the case is still open and being investigated by the TBI. DA Funk stated his notification also was not timely and that he thought that MNP would notify MNCO because of the MOU.
- ❖ Member Campbell-Gooch expressed concern over DA Funk receiving a delayed notification for the in-custody death and the fractured relationship within the departments.
- ❖ Member Martinez asked if the DA's office could notify the Board since MNP was neglecting to do so. Director Fitchard stated that the DA's office did not offer to provide notifications, but she did reiterate to them what was needed for MNCO to be successful. Director Fitchard will raise the issue of notice for any ongoing investigation.
- ❖ Director Fitchard discussed her ongoing communication with Director Martini regarding the lack of DEC incidents since May 16th and the necessity of those notifications. An email was sent to Director Martini, John Buntin, and Deputy Chief Hagar inquiring why the department was not properly notified of an officer-involved shooting event and what steps would remedy this error.
- ❖ John Buntin set up a conference call with Director Martini, Director Fitchard, and Assistant Director Chris Clausi to fix the notification issue. Assistant Director Chris Clausi has been added to the notification process. Director Martini sent a follow-up regarding the steps he took to remedy the issue.
- ❖ Director Fitchard discussed the issue of receiving certain records pertaining to the officer-involved shooting and the denial of records (specifically, CAD reports) from MNP. OPA has access to these records when they are conducting administrative investigations.
- ❖ Director Fitchard, Assistant Director Clausi, and Legal Advisor Pinckley reached out to Robert Cooper (Director of Metro Legal) regarding how to obtain records without using subpoena power.

- ❖ Director Fitchard spoke with John Buntin today regarding the issues obtaining necessary records. John Buntin listened and appreciated the steps being taken to reach out to Metro Legal for resolution.
- ❖ Member Campbell-Gooch asked did anyone offer action steps on what the Board could do to proactively solve the issues. Director Fitchard stated DA Funk mentioned he would offer his services to help resolve the issue by reaching out to other agencies.
- ❖ Legal Advisor Todd Pinckley spoke about a letter to Robert Cooper on obtaining records without requesting a subpoena from Metro Council.
- ❖ Member Holloway stated that we need full cooperation from everyone involved.
- ❖ Member Sweeney asked in the case of the officer-involved shooting does OPA get involved in a TBI investigation? Assistant Director Clausi stated that OPA Director Kathy Morante informed him OPA will respond and perform a separate administrative investigation. If the TBI is not involved, OPA handles the investigation from start to finish. If the TBI is involved, then OPA will collaborate with the TBI.
- ❖ Member Campbell-Gooch stated he would prefer a constant subpoena of records, rather than reaching out to the departments for action. Talks should be held with the Minority Caucus and other Civil Rights organizations for their input.
- ❖ On Tuesday, May 12, Director Fitchard received an email from community advocates. The email was also sent to Governor Bill Lee, Mayor John Cooper, Chief Steve Anderson, Dr. Alex Jahangir, Executive Director Jim Harbison, and several other state and city leaders. Community advocates raised multiple concerns related to COVID-19 testing and the deployment of the National Guard to MDHA properties. Advocates wanted to know if the testing notices informed residents that participation was voluntary or that their positive test results would be shared with MNP. In addition, the community advocates suggested that the COB, the Metro Board of Health, and other oversight agencies be involved in the planning, monitoring, and managing of the active patient list to ensure proper management.
- ❖ On Wednesday, May 13, Executive Director Mel Fowler-Green of the Human Relations Commission and ED Fitchard met with ED Jim Harbison of MDHA to determine what was happening with the testing at MDHA properties and get answers to the community- raised questions. ED Harbison agreed to attend the meeting that ED Fowler-Green and ED Fitchard hosted and invited other community groups to attend. The community had the opportunity to ask ED Harbison questions and get more

insight into the purpose of having the National Guard conduct COVID-19 testing of MDHA residents.

- ❖ On Wednesday, May 13, Director Fowler-Green and Director Fitchard sent a joint letter to the Mayor, Chief of Police, Dr. Alex Jahangir, Dr. Caldwell, and Director Renee Pratt raising civil rights concerns about several actions and policies across Metro related to the coronavirus pandemic. Director Fowler-Green and Director Fitchard have not received a response to this joint effort.
- ❖ The Tennessean stated today that the reporting of positive test results would cease at the end of May 2020.
- ❖ Member Lewis commented that the state had stopped reporting positive results, but Metro is still considering reporting positive test results as of today.
- ❖ Member Campbell-Gooch asked if anyone contacted Director Fitchard or the staff about sharing test results. Director Fitchard stated that no one had contacted her about that issue.
- ❖ Member Hughes asked why sharing positive results was necessary. Director Fitchard stated she did not receive any information but did ask Deputy Chief Haggar why this information would need to be shared. An email was sent back from Deputy Chief Haggar stating that the information was confidential. He also included policy information along with a roll call briefing. The briefing indicated it was necessary to protect law enforcement officers and use PPE if they encounter someone who tested positive with COVID 19.
- ❖ On Thursday, May 21, Director Fitchard and Assistant Director Chris Clausi received an DEC notification at 9:30 PM that stated an officer was shot and that a suspect was not in custody. A short time later, multiple notifications were received stating a suspect was shot by officers who were attempting to apprehend.
- ❖ Assistant Director Clausi contacted the DEC manager-on-duty to get more information about the incident. Director Fitchard and Assistant Director Clausi arrived at the location at approximately 10:30 PM. Once on the scene, Fitchard and Clausi were directed to a place where they could safely stand, and a short time later, they were greeted and briefed by Deputy Chief D. Huggins. The TBI Agent-in-Charge arrived on the scene, briefed them again, provided his contact information, and relayed that his agents would process the crime scene.

- ❖ Director Fitchard and Assistant Director Clausi were not authorized to proceed to the active crime scene, which was around a curve on the interstate and not in view from their location. Director Fitchard and Assistant Director Clausi stayed at the designated place for an hour and then moved to another location closer to the crime scene but were still unable to see clearly because of distance and darkness. Director Fitchard and Assistant Director Clausi had no other contact with MNPD or TBI and left the area around midnight.
- ❖ Member Campbell-Gooch asked the Board what processes need to be in place to prevent future investigatory issues. Director Fitchard is allowing a few days before records are requested so that they can be uploaded into the system. Member Campbell-Gooch stated now is the time to start using subpoena power. Member Hildreth commended Director Fitchard for keeping the Board accurately informed and asked what support Director Fitchard needed from the Board. Member Hildreth suggested a document be compiled that states what records are asked for, when they are asked for, and tracks the time of response.
- ❖ An email was sent to Deputy Chief Hagar to address questions raised at the April meeting by Board members regarding the information relating to the BWC/ICC pilot program. Deputy Chief Hagar responded promptly to the questions. A follow-up email was sent on May 22, with additional questions, and a request that an informational be released to the Nashville Community to keep them informed of the results of the BWC/ICC pilot program.
- ❖ During the May 22 meeting, DA Glen Funk extended an invitation to the Board and MNCO to view a demonstration of the Body Worn Camera footage. The viewing station is in the Metro Courthouse Birch Building. DA Funk also provided Director Fitchard and Assistant Director Clausi a point of contact if assistance was ever needed with the viewing of BWC/ICC footage.
- ❖ Board members are to get in contact with Director Fitchard if they would like to attend the viewing station to view Body Worn Camera footage.
- ❖ The MNCO FY21 operating budget was decreased by \$37,700. The rental agreement was extended one year with a savings of \$2,700 for the renegotiation of the rental contract and the travel funds reduced by \$35,000 for the elimination of travel. This reduction did not have a significant impact on the COB operating budget.
- ❖ Member Sweeney requested that the letter regarding records sent to Robert Cooper be shared with the Board.

- ❖ Member Whitsell thanked Director Fitchard for her work and asked what community involvement is needed. Director Fitchard stated contacting John Buntin and informing him that the community is involved would be effective.

8. Policy Advisory Report Proposal

- Liz Orozco highlighted items in the Law Enforcement Accessibility and Community Outreach in Limited English Proficient, Deaf, and Hard-of-Hearing Communities Proposal to the Board.
- The report resulted from community concerns in the Immigration Enforcement Report regarding communication and language interpretation and community outreach on behalf of MNPDP.
- The research scope might be impacted due to COVID- 19 and working remotely. Interviews can be conducted over the phone, but limitations would be placed on attending outreach events hosted by MNPDP.
- Member Sweeney asked if the blind and sightless were impacted along with the deaf and hard of hearing? Liz Orozco stated that the blind community would be considered.
- Member Sweeney asked if MNCO would consider how other communities deal with the following issues. Liz Orozco stated that steps taken by other communities would be included in her research.
- Member Sweeney asked about constructing a survey with statistical information, self-selection through interviews, etc. Liz Orozco stated Metro Human Relations has offered assistance, including researchers and data. Law Enforcement will also be contacted for input.
- Member Hughes expressed his excitement over the proposal, pointing out it will serve the needs of those in the community that might otherwise be forgotten.
- Andres Martinez moved to approve the Policy Advisory Report Proposal. Timothy Hughes provided a second on the motion. The Policy Advisory Report Proposal was unanimously approved.

9. Criminal Justice & COVID -19 Report

- Dr. Peter Vielehr presented a PowerPoint presentation regarding the impact of COVID-19 on the criminal justice system. Jails and dentition facilities are a key source of people becoming ill and dying.
- From March 16 until the end of April, there has been a 22% decline in the jail population.

- Many people are held pretrial with a bond without being convicted of a crime. Dr. Vielehr discussed the decreasing rate of incarcerated people in Davidson County.
- Dr. Vielehr explained that most of the jail population consists of people that cannot pay or were denied bail.
- Misdemeanor arrests have declined by 58% in two weeks from the Safer-At-Home Order.
- Information from future reports will highlight how the justice system has changed through this pandemic.
- Member Hughes thanked Dr. Vielehr for this research work and public safety alternatives.
- Dr. Viehler explained that police officers have the discretion to issue a citation, misdemeanor arrest, warning, or another alternative to arrest. The Sheriff has stated that he would like to maintain a lower population in the jail system to reduce the number of COVID-19 outbreaks.
- Member Campbell-Gooch asked Dr. Viehler to explain the declining arrest rate and whether it stemmed from the police changing their focus. Dr. Viehler explained that there had been a decline in calls of service that require a custodial arrest.

10. Public Comment

- Ann Watkins stated that the police officers that were fired in the George Floyd case were fired due to a policy that requires them to intervene when they witness excessive use of force by fellow officers. Does Davidson County have a policy like this? If not, can this be addressed at the next meeting so that the community can advocate for such a policy?
- Director Fitchard will follow up with Ann Watkins to thank her for her input.

11. New Business /Announcements

- John Buntin was invited to the next Board meeting, which will be held on June 24, 2020. Chair Davis requested that a calendar reminder be sent to Mr. Buntin.

12. Adjourn

- Member Holloway moved to adjourn the meeting with Member Hildreth, providing a second. The motion was unanimously approved. The meeting adjourned at 6:21 pm.

Approved by the Board at COB meeting 6/24/20

/s/ Matt Sweeney 9/4/20
Secretary