

Community Oversight Board Meeting
MEETING MINUTES
Friday, Nov 19, 2021 – 4:00 PM
Howard Office Building – Sonny West Room
700 2nd Ave S, Nashville, TN 37210

1. Call to Order

- **Chair Andrés Martínez called the meeting to order at 4:00 p.m.**
- **Board Members in Attendance:** Andrés Martínez, Drew Goddard, Makayla McCree, Walter Holloway, Mark Wynn, Arnold Hayes, Joe Brown, Hamid Abdullah, Phyllis Hildreth, Shawn Whitsell, Jamel Campbell-Gooch.
- **Board Members Absent:** None
- **MNCO Staff in Attendance:** Jill Fitchard (Executive Director), Daniel Yoon (Legal Resource Advisor), Peter Vielehr (Lead Research Analyst), Gavin Crowell-Williamson (Research Analyst)
- **Others in Attendance:** included Dave Maass (Director of investigations, Electronic Frontier Foundation), Jack Seigenthaler (Policy Strategist, ACLU Tennessee), Vienna Thompkins (Organizer, Black Nashville Assembly).

2. Establish Quorum and Reading of Appeals Statement

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

3. Chair Remarks

- Chair Martínez stated he sent a letter to Council, per the Board's request at the last meeting, requesting that they defer the License Plate Reader legislation.

4. License Plate Reader Discussion

- Dr. Vielehr facilitated discussion by three invited speakers:
 - **Dave Maass – Director of Investigations, Electronic Frontier Foundation**
 - LPRs collect a truly massive amount of data, disproportionate to the public interest, very little of which is useful: 47 out of 1,000,000 (0.005%). The errors of LPRs can and have negatively impacted innocent community members. Examples include: children handcuffed, residents held at gunpoint, municipalities paying out \$495,000 settlements, disproportionate targeting of Black neighborhoods, abuses by rogue officials within law enforcement

agencies, peaceful Black Lives Matter demonstrators having cars impounded, secret (not transparent) contractual agreements between law enforcement agencies and for-profit LPR manufacturers (e.g. Vigilant Solutions non-publication and non-disparagement clauses, contractually prohibited from communicating with Mayor, Council, Community Oversight Board and public), breaches/hacks by external actors (e.g. U.S. Customs and Border Protection breached and photos of travelers taken), gateway to other types of surveillance technology like facial recognition.

- **Jack Seigenthaler – Policy Strategist, ACLU Tennessee**
 - Of the two pending Metro ordinances, ACLU Tennessee expresses support for BL2020-841 over BL2020-961. 3 primary concerns with use of LPR technology generally: (1) threat to privacy and liberty; (2) exacerbate existing over-policing; and (3) increase the number of interactions between law enforcement and community members, particularly communities of color and low-income communities. Whatever potential benefit LPRs may offer, they *must* be strictly regulated to prevent abuses. International Chiefs of Police also warn of the chilling effect LPRs will have on the free expression of rights. For example, one provider is Vigilant Solutions, which is currently sharing a camera with MNP, had an agreement to share information with Immigration and Customs Enforcement.
- **Vienna Thompkins – Organizer, Black Nashville Assembly**
 - In the legislation proposed, Public Defender and District Attorney auditing clauses are reactive only. There is no true oversight mechanism that would create a “feedback loop” to actually monitor and catch abuse, misuse, etc. LPRs amplify harm to already impacted communities. Whatever potential and statistically non-existent benefit of LPRs, is traded off with the privacy and civil rights of the most marginalized. Data confidentiality is also not addressed in the legislation.

5. Board and Public Questions regarding License Plate Readers

- Board Member Campbell-Gooch: Is there a higher error rate toward Black People? Yes.
- Board Member Holloway: What are consequences if/when MNP starts abusing authority? No answer.
- Board Member Brown: We’ve heard a long list of horrors. Are there any favorables, or examples of positives of this technology? No, police departments everywhere are using this technology irresponsibly across the board.
- Board Member Wynn: Are there any good models of oversight? Oakland and San Diego have oversight boards that monitor LPR use by their law enforcement agencies.
- Board Member Hayes: Is there a good audit example? Not possible with private companies. No risk assessment validation or test for biases.
- Board Member Hildreth: This is helpful information. Are there any experiences with the proposed time frames of 24 and 72 hours being proposed in legislation? Can adherence to erasure times be audited? Good questions. Unclear as to what is even meant by “deleted” and whether that information can be recovered and if metadata is retained in the trash bin or cloud.

- Board Member Wynn: What can you say about the use of this technology carrying out biases? Neutrality is a myth. Biases exists. LPRs are not a tool that cures problems.
- Director Fitchard: What policy does the MNPD have related to LPR abuses? Commander Lara states that there is no current or contemplated policy related specifically to LPRs by the MNPD, to his knowledge.

6. Approval of the Minutes

- Board Member Holloway moved to approve the minutes which had been updated to reflect the Budget Committee correction, Board Member McCree seconded, and the motion passed unanimously

7. Executive Director's Report – Jill Fitchard, Executive Director

Director Fitchard presented the Executive Director's Report, a copy if which is attached and made a part of these minutes. Additional discussion included:

- On December 6, COB staff will begin budget talks with the Mayor's Office.
- Director Fitchard discussed with Director Buntin from the Mayor's Office multiple times the lack of inclusion of the COB in the Partners in Care committee. No persons of color present at the Partners in Care presentation on November 4. There is also only one community organization (NOAH) included on the Partners in Care advisory committee. She expressed concern about all of this, noting that it indicates a lack of transparency. Comments by Board members on this included:
 - Board Member Campbell-Gooch: I'm sorry about the difficulties. It's stressful not be able to do oversight. I'm interested in a legal memo for legal actions we can take when left out.
 - Board Member Holloway: We need to expose to press before legal options.
 - Board Member Whitsell: I just want to offer support to Board Member Campbell-Gooch and look at legal options as well. Why weren't we invited? What criteria was used to come up with stakeholder list, and who came up with it? Who sent the invites and why didn't they include COB?
 - Board Member Wynn: It's right to be suspicious when the administration indicates it does not want oversight of this process. What are you afraid of? Either the administration doesn't believe in this Board or doesn't understand what we do.
 - Board Member Goddard: Looking at the report that was issued, I'm shocked at how little data it contains and how short it is. I can't tell if the Partners in Care pilot is good, bad or somewhere in between based on the scant information it contains.
 - Board Member Hayes: The Mayor and administration need to decide if they're going to cooperate with us or not. We've been here for 3 years and it's a continual struggle even though we have the community's confidence. We're trying to get to the root of the problem. It's not about lawsuits for me. It's about this administration deciding whether it's going to ensure every other department is going to work with this Board. It's not happening. It's very disappointing but not surprising.
 - Board Member Holloway: It's not a secret. It's being done by design. The reason there's no persons of color on the committee is because there was no intention to put a person of color there. We need to stand our ground, get the vote out and do what needs to be done.

- Board Member Gooch: Again, what are our legal options? There's a pattern of behavior here from day one where there's been a lack of cooperation. That's the intention. It's unusual for two bodies of government to have an MOU when they're part of the same government. Instead of rehashing the same conversation, it might take a legal action on our behalf by the COB attorney.

8. Proposed Resolution Reports – Jill Fitchard, Executive Director

- MNCO Complaint CC2020-014 –Director Fitchard presented the report. Board Member Brown moved to accept, Board Member Holloway seconded, and the motion passed unanimously.

9. Public Comment

- Erica Perry, Black Nashville Assembly – Vote no to any form of LPR (license plate readers). The Black Nashville Assembly has been speaking with Black community members for more than a year about public safety. They've asked for housing, fully-funded education, access to healthcare and good jobs. They've never said LPRs. We talk about community-based alternatives and solutions, and I never hear that brought up at the COB. We need a racial impact study of LPRs on Black, Indigenous and Persons of Color. Black people are less than 30% of this community and make up more than 50% of the people in pretrial detention. Don't choose either LPR legislation bill.
- DJ Hudson, digital organizer with Media Justice and 14-year Nashville community organizer – I deal with racial justice and technology in my job, and that is relevant to this conversation. Tech companies have a mind-boggling amount of wealth and want to get in as many markets as possible. Their use has spiked in growth during the pandemic. For example, in October 2019, Amazon Ring was in 500 markets. By October 2020, this tripled to 1500. And now it's at 1800. LPRs are telling Black people that government doesn't care. Increased exposure of law enforcement with the public increases the likelihood that someone's son/daughter, mother/father won't come home.
- Director Fitchard asked Captain Lara: Is any policy being contemplated by MNPD with regard to LPRs? Captain Lara responded no, there is, no discussion, since there is not a bill authorizing LPRs, there has been no reason to speak about it.

10. New Business/Announcements

- Special Council Meeting regarding Public Safety

11. Adjourn

- Board Member Brown moved to adjourn the meeting, Board Member Whitsell seconded the motion, and it passed unanimously. The meeting adjourned at 6:15 pm.



November 2021 COB Executive Director's Monthly Report

Executive Summary

MNCO Office—Staff members will be in the office during regular business hours, on most days, to assist the public. Safety measures are in place for staff and the community and masks, although not required, are encouraged as is social distancing.

MNCO Personnel Update—The Community Liaison and Administrative Assistant vacancy announcement ended on 11/12/21 and we will start the process of interviewing candidates in the next few weeks.

MNCO Training—NACOLE's Annual Conference is approaching. MNCO staff and board member will attend the training. The in-person component will be held December 12-16, 2021 in Tucson, Arizona. For more information, please check the NACOLE website for detailed information on how to register.

- ED Fitcheard continues to encourage and promote training and professional growth for staff members. Staff members attend trainings each month.
- ED Fitcheard attended several trainings in November:
 - Council on Criminal Justice: Reducing Community Gun Violence: Why Collaboration Works.
 - Justice Collaboratory at Yale Law School: Policing Data: What is it? What can we do with it? and Why is it so hard to get?
 - NACOLE Webinar: Investigating and Analyzing Use of Force.

Community Outreach—We continually strive to participate in outreach endeavors to make the public aware of the services that MNCO provides, specifically around how to file complaints, the process, and the difference between administrative and criminal investigations.

- Tuesday, November 2nd, ED Fitcheard attended MNPDP's Interpersonal Crimes Branch monthly meeting hosted by Capt. Hunsicker.
- Tuesday, November 9th, ED Fitcheard and Dr. Vielehr met with Joy Caruthers-Johnson of JTraining Solutions who spoke to us in length about her Diversity, Inclusion and Equity services .
- Monday, November 15th, ED Fitcheard and Dr. Vielehr gave a presentation to MNPDP's lateral class (session 94) about the history of the COB, Investigations, Mediation, and Research.

MNCO Research—Dr. Vielehr and Research Analyst Gavin Williamson-Crowell continue to work on Criminal Justice advisory reports that address the current state of Policing and Criminal Justice trends, patterns, and

practices locally and nationally. Dr. Vielehr attended a special committee meeting on jail data, Co-Responder program stakeholder meeting, Yale's Justice Collaboratory's Policing Conversation series on Policing Data, Justice Clearinghouse's training: Effectiveness Evaluation of Implicit Bias, Research Study Results and began coordination of Cure Violence evaluation RFP process with Mayor's Office.

Complaints—The MNCO continues to receive calls from the public to initiate complaints of alleged misconduct by MNPB officers. The MNCO received a total of 3 investigative complaints since its last Board meeting in October. MNCO received a total of 3 non-complaint calls for service.

MNCO Investigations—Complaints have steadily climbed and the need to increase the investigator staff, to meet the needs of the community, is a priority. MNCO received 37 complaints in 2020 and 58 (as of November 12) in 2021. ED Fitchard, in the coming months, will present data to the Board to support a request to expand the MNCO staff and services.

COB Budget Committee—The Budget Committee will meet in January 2022 to discuss and analyze the COB's operating budget to determine funding needs and goals to expand MNCO services.

COB Nomination Committee—The Nomination Committee will meet in December to discuss the selection process of those who will be elected to serve on the executive committee as members terms expire.

Proposed Resolution Reports— Director Fitchard will present one resolution report for consideration at the November meeting. The Proposed Resolution Reports can be found on the COB webpage at Nashville.gov.

MNPB Chief of Police PRR Response—Chief Drake responded to Board's recommendation for PRR-CC2020-030 with an updated recommendation of "exonerated."

MNPB Records Update—The MNCO investigators report no issues in November with receiving MNPB requested records.

Force Review Board: ED Fitchard will attend MNPB's Force Review Board on Monday, December 6th.

Force Review Update—As we continue to receive and review cases regarding deadly police shootings the MNCO staff continue to discuss, monitor, and find ways to complete those very important cases with limited investigative staff. We are researching and seeking input from other peer agencies to determine best practices for auditing and investigating deadly shootings. We believe auditing those special case types will help with meeting the timelines the COB has set forth in its Rules and Bylaws regarding investigations.

License Plate Reader Discussion—COB will have three guest panelists to speak about LPR's at the November meeting and will have several panelists at the December meeting to continue the discussion of surveillance and public safety.

MNPB CIT Co-Response Pilot—ED Fitchard and Dr. Vielehr attended the first Partners-In-Care committee meeting on November 4th. The meeting was held at the Hermitage Precinct and open to the public. The Committee is made up of mental health and CJ professionals. ED Fitchard has requested to become a committee member and be included in the weekly updates.

Department Head Meeting—ED Fitchard attended the monthly Department Head and Elected Officials meeting on Thursday, October 28th.

Mayor's Office—ED Fitchard met with the Mayor's Policy Director and COB liaison, Director John Buntin, in November to discuss various topics regarding COB business and address any needs of assistance.

Survivor Resources—ED Fitchard met with MNCO leadership and the Research team to discuss an endeavor that would assist complainants, and the family of deceased individuals, who have been directly impacted by police violence and deaths. The MNCO research team is gathering data from around the country and searching for funding resources for this endeavor. More information on this proposal will be provided in the coming months.

Upcoming Board Meetings—The December Board meeting is scheduled for Monday, December 20th. The meeting location is the Sonny West Room at the Howard Office Building. The community can find our meeting dates and times listed on our social media sites and at Nashville.gov.

This concludes the November 2021 Executive Director's Report.