

# COMMUNITY OVERSIGHT TASK FORCE

## PUBLIC SESSION MINUTES

September 21, 2017

Present at the meeting were Community Oversight Task Force (COTF) members Marvin McKenstry (chair), Ed Jackson (co-chair), Daniel Levine (secretary), Jeff Anderson, Denise Duval, Ralph Hughes, and Andrew Reinel.

Also present were:

Ray Kelly, No Boundaries Coalition

Summary of motions passed:

- 7 September 2017 minutes adopted with minor revision

### **I. Welcome**

Marvin McKenstry welcomed everyone to the meeting at 5:15PM, and provided a brief overview of the host organization, for which he works, the West Side Youth Opportunity Center. The Center helps youth to become more employable through education, employment search support, and providing a safe space in the neighborhood that is respected even by local gang members. The Center also hosts a Department of Juvenile Services evening reporting center for juveniles at risk of involvement in violence. Jonathan Hamlett, the evening program supervisor, took COTF members on a brief tour of the facilities, including classrooms, exercise equipment, and a recording studio.

### **II. Adoption of 7 September 2017 minutes**

Daniel Levine pointed out a small error with the minutes; the motion authorizing the Community Engagement Subcommittee to work on establishing focus groups and community forums had not been included in the summary of motions passed. Ed Jackson moved that the minutes be adopted with that revision; Jeff Anderson seconded, and the motion passed unanimously.

### **III. Report from the National Coalition for Civilian Oversight of Law Enforcement Annual Conference**

Before the report on the National Coalition for Civilian Oversight of Law Enforcement (NACOLE) conference, Mr. McKenstry welcomed Andrew Reinel back from his absence. Mr. Reinel had been attending a conference on the critical pedagogy of Paolo Friere, which he pointed out was also relevant to policy-making and organizing work.

Ray Kelly from the No Boundaries Coalition and Col. Jackson had attended the NACOLE conference on behalf of the COTF. Col. Jackson provided members of the task force with a variety of materials, including the conference program. Mr. Kelly provided the COTF with formal notes on his experience as well as his comments at the meeting.

Mr. Kelly opened his remarks by arguing that an intensified commitment to building public trust was needed as the federal government shifted to focus more on crime reduction and law enforcement than justice system reform. He provided notes on several sessions, having attended sessions with an eye toward those discussing cities relevantly similar to Baltimore, and sessions that focused on approaches to community engagement. Mr. Kelly noted that one discussion centered on Spokane,

WA's reforms in the wake of a 2006 incident in which a homeless man with a developmental disability was killed by police, sparking unrest. Spokane's reforms were ultimately adopted by the surrounding Spokane County, and touched off efforts at statewide reform. Mr. McKenstry said that this provided some hope for reform of the Law Enforcement Officers' Bill of Rights (LEOBR) in Maryland.

Mr. Kelly expressed admiration for the approach to civilian oversight in Washington, and was echoed by Col. Jackson, who also praised the Seattle approach for being strategic and long-term. What is important to recognize, Mr. Kelly argued, about the Seattle approach, was that it established an independent and permanent Community Police Commission, independent of the City and the police department. Because independent, the Seattle Commission is better able to engage in long-term strategy and advocacy. Mr. Kelly argued that most progressive reforms involved similar permanent independent bodies. In Baltimore, this could take the form either of establishing a new independent commission, or of increasing the independence of the Civilian Review Board (CRB). Ms. Duval asked if reforms to the CRB would be sufficient to create such an independent body; Mr. Kelly answered that in addition, changes to the City Charter and LEOBR would also be required to make it fully independent. Mr. McKenstry noted that another option would be to create a permanent version of the COTF. Mr. Kelly said that that had been proposed in the negotiations regarding the consent decree, and the time-limited COTF was the compromise that eventually emerged.

Mr. Kelly reported that the session which made the strongest impact on him personally was the one on mindfulness, "intentionally listening to and hearing the concerns, questions, and ideas of the marginalized population for the sole purpose of changing the paradigm and environment that has caused them trauma." He endorsed an approach that involved meeting with people without surveys or set questionnaires and simply asking how they felt about some situation and what they thought should be done about it.

Mr. Reinel asked how independent commissions in other cities were funded. Mr. Kelly replied that they were typically funded through grants and/or City funding determined by consent decrees. He further argued that part of their strength was that because the commissions are not bound by legislation, party, or ties to a particular institution - commissions are not "the mayor's office of community oversight" - they can interpret their own mandate and advocate for change if necessary.

Mr. Kelly and Col. Jackson both attended a presentation at NACOLE on transparency in civilian/community oversight, and agreed that it was a key issue in Baltimore and that people felt disengaged from the police. Col. Jackson argued that there needs to be a venue open to anyone to engage with the police, beyond the police spokesperson and the press room. The only way, he said, to sustain progress on reform was to keep the community engaged - when engagement falls off, reforms tend to be deprioritized by political institutions.

Col. Jackson pointed out that police unions had proven to be challenges to police reform in a number of cities - many oversight entities had built momentum initially, but were now in "muddy water" because of arbitration procedures with police unions. In addition, Baltimore shares with several cities (like Canton, NJ) a city police department that is run by the state.

Col. Jackson suggested that one of the core recommendations of the COTF should be the creation of standing oversight entity with procedural oversight powers and its own research capacity, which would permit the creation and adaptation of oversight procedures over the long term in Baltimore. Mr. Kelly pointed out that even the "best practices" in the field are still often inadequate, and so refinement would be needed under the best of circumstances. Dr. Anderson concurred, saying that such a recommendation would be to create a system/infrastructure for oversight and progressive

change, not just a list of particular reforms. Mr. Kelly pointed out that any oversight entity that had persisted for more than two years had undergone significant change. Mr. Kelly further noted that Baltimore's consent decree might end up being the last ever concluded, given political changes in the federal Department of Justice.

Col. Jackson reported that one of the sessions focused on the Fourth Amendment to the US Constitution, and discussed training members of the community to better understand their constitutional rights. Better understanding of these rights, Col. Jackson argued, could improve oversight and empower citizens. Mr. Kelly appreciated that in several of the cities discussed, the community education about rights was a police initiative. Another session focused on the history of laws like LEOBR, which began as a way to protect officers from retaliation by politicians, and hence preserve their independence. While weakening or altering LEOBR could make some forms of oversight easier, Col. Jackson noted, it could also have unintended consequences.

Mr. Kelly presented key lessons from a session on meaningful community engagement. Anyone seeking community engagement around police issues should keep two key considerations in mind: First, they should ask themselves who is missing from current conversations about the police. Second, they should consider what their plan for targeted outreach is and should be. Denise Duval asked if there were police departments using these strategies, to which Mr. Kelly replied that they would not necessarily work if initiated by a police department, since their motives and independence would be questioned. Col. Jackson, however, did note with appreciation that there were police officials in the session on engagement who seemed interested in improving their outreach.

Mr. Kelly closed with the recommendations he derived from his experience at the NACOLE conference. The key one was that there be a facilitated conversation about what has happened between police and the community in Baltimore. There was some discussion of different conversations that have happened in Baltimore, but the overall sense was that nothing done so far had been sufficient. As a result of a lack of meaningful community discussion, in Mr. Kelly's view, the Department of Justice arrived and imposed a solution on the City. Mr. McKenstry noted that some community organizations that had initially engaged with the Department of Justice after the death of Freddie Gray drifted away from the process once they had secured roles for themselves. Several members of the committee discussed the ways in which citizens of Baltimore have become disenchanted with attempts to involve them in political change, which often came with unfulfilled promises, leading people to be more interested in events/gatherings that promised them immediate material support, or to become involved with organizations that sought change outside official government channels. Any oversight body seeking to have meaningful engagement with the community would need the resources to be staffed and accessible, and funded sufficiently to carry out research and advocacy.

Ralph Hughes asked if there were any cities in particular with which Col. Jackson and Mr. Kelly had been impressed. Col. Jackson mentioned Oakland, CA – though noted that while they made political process, Oakland's oversight body was underfunded. He noted, and Mr. Kelly concurred, that independence in a commission was a potential threat to politicians, making funding more difficult.

#### **IV. Impact of the Monitor Selection Process**

Mr. Kelly said that he had been receiving calls from the Department of Justice (on behalf of the No Boundaries Coalition) asking how to re-engage members of the community in the wake of the City and Department of Justice's decision regarding the Independent Monitor for the consent decree [shortly before the meeting, it had been announced that, though community forums had been held to permit engagement with the monitor candidate teams as submitted for consideration, the City and

Justice would be recommending a hybrid team made up of members of two different monitor candidates, with the Baltimore Community Mediation Center (BCMC), which had facilitated some forums but was not part of any initial candidate team, serving in a community engagement role]. Mr. McKenstry expressed concern that there was no opportunity for the community to engage with the hybrid team or review its proposed strategy. Col. Jackson pointed out that one of the firms involved in the hybrid team (Venable LLP) had also been involved in defending the state of Maryland in a lawsuit alleging that the state acted in a discriminatory fashion in the way it distributed resources to state schools, disadvantaging Historically Black Colleges and Universities (HBCUs). Ms. Duval also pointed out that members of the firm had been involved in mayoral transition teams for decades. Mr. McKenstry asserted that BCMC was being used as a “band aid” for its reputation as a neutral broker, and Mr. Kelly argued that that reputation had been compromised and it would now be up to other community organizations to engage the public.

## **V. Breadth of Mandate**

Col. Jackson said that, hearing about other cities’ experiences at the NACOLE conference, he was surprised at how broad oversight could be. Since some issues between the police and the community resulted from police being expected – unfairly, he said – to address the results of environmental and structural problems, truly addressing community oversight could require addressing broad issues such as poverty and hopelessness. Mr. McKenstry said that the COTF should not shy away from making radical proposals so long as they were relevant and effective. Mr. Reinel suggested that the COTF could recommend a body similar to the COTF, with some city funding but a mandate to do independent research and investigation. Mr. McKenstry agreed that the COTF should recommend that it or a similar body continue to exist, to oversee the CRB and perhaps the Office of Civil Rights and Wage Enforcement as a whole, both to ensure they were operating effectively and to ensure that the public could see there was independent confirmation of their effectiveness.

## **VI. Citizens Advisory Committee**

Mr. Kelly pointed out that, in addition to the CRB, the COTF should engage the new Citizens Advisory Committee. Ms. Duval asked for some background on the Citizens Advisory Committee. Mr. Kelly informed the COTF that the Committee had grown out of an original proposal to make the COTF a permanent body, which had failed in the last legislative session in Annapolis. Councilman Brandon Scott then reintroduced the idea as a City Council resolution. The intent was to have representatives from each police district, as well as representatives from relevant groups (such as the Office of the State’s Attorney).

## **VII. Invitation to Andre Davis**

Ms. Duval informed the COTF that, while there had been some hope that the new City Solicitor, Andre Davis, could attend the 21 September meeting, that had not been possible, but he planned to join the Task Force for the 19 October meeting. She also said that Judge Davis understood that the COTF would appreciate further support from the City. Judge Davis, she reported, had proposed that the Open Society Institute – Baltimore (OSI) put the funds it was willing to contribute into an account at the City Foundation, which could then be spent at the direction of the COTF and the City. After some discussion of possible advantages and disadvantages, Col. Jackson and Mr. Reinel volunteered to assist Ms. Duval in investigating financial options. There was also a discussion of whether accepting additional city resources would compromise the independence of the COTF. Mr. Reinel pointed out that the COTF could always meet with Judge Davis and decline City support if the approach he proposed seemed to undermine the Task Force’s independence.

Dr. Anderson said that he had been under the impression that Judge Davis was to be invited to discuss the boundaries between the COTF and City agencies, not financials; Mr. McKenstry replied that that was still an intended topic, and that other issues had arisen during initial outreach conversations.

### **VIII. Extension of Task Force Mandate**

Ms. Duval had raised the issue of extending the deadline for the final COTF report with Judge Davis, who did not think it would be difficult to get approval from the Department of Justice. While members of the COTF seemed to agree that an extension was likely to be needed, especially to give time to conduct public outreach and incorporate public input, there was significant cross-cutting discussion about when to formally begin any process of asking for an extension, what the perception would be, what benchmarks should be ideally met before discussing an extension, and how long would be required. For instance, Sen. Hughes pointed out that a request for an extension would likely be perceived more favorably if the COTF could demonstrate a record of work accomplished as well as a clear plan for how any extension would be used. No consensus was reached at this time.

*The meeting was adjourned at 7:26PM*