

CIVILIAN REVIEW BOARD WORK GROUP MEETING SUMMARY

Friday, May 29, 2020

Members Present: Deputy Mayor Ellen Hesen, Co-Chair, Councilwoman Paula McCraney, Co-Chair, Kendall Boyd, Jim Burch, Raoul Cunningham, Councilwoman Keisha Dorsey, Drew Fox, Eric T. French, Sr. Reginald Glass, Ingrid Geiser, Councilwoman Jessica Green, Jessie Halladay, Brenda Harral, Chris Hartman, Keturah Herron, Amy Hess, Councilman Bill Hollander, Paul Humphrey, Chandra Irvin, Ricky Jones, Josh Judah, Representative Nima Kulkarni, Roosevelt Lightsey, Jr., Edgardo Mansilla, John Marshall, Kim Moore, Senator Gerald Neal, Ryan Nichols, Sadiqa Reynolds, Erwin Roberts, Judy Schroeder, Anthony Smith, and Imani Smith.

Guests Present: Mayor Greg Fischer and President David James

I. Opening, Charge & Group Introductions/Roll Call

Deputy Mayor Ellen Hesen thanked members for participating in the virtual Civilian Review Board Work Group meeting and provided a brief overview of the agenda that was shared with all members prior to the start of the meeting. Expectations were established for followup on all questions whether asked by members of the work group, or members of the public watching via Facebook Live. Mayor Greg Fischer reinforced the importance of the meeting, the contribution of each member, and the charge of the work group to help stop the cycle of violence, as evidenced by protests in Louisville the evening of May 28th. The Mayor acknowledged the Co-Chairs Deputy Mayor Ellen Hesen and Councilwoman Paula McCraney and he provided a brief review of events since the night of May 13, 2020 when Breonna Taylor was killed. Mayor Fischer announced that a new Chief of Police will be named soon and noted that there is new LMPD oversight with Chief Amy Hess. He advised that no-knock warrants have been suspended indefinitely, and informed members that this work group will review, debate and recommend policies for a Civilian Review Board in Louisville. After closing remarks, Mayor Fischer took roll of the membership present at the meeting.

Metro Council President David James thanked the work group and echoed the Mayor's remarks. He noted that protests indicate one frustration of many, and that a better level of credibility and accountability with police and the community is needed. He encouraged members to give due consideration for review boards and inspector generals throughout this process.

2. Presentation by the Criminal Justice Commission

Deputy Mayor Hesen introduced Executive Director of the Louisville Metro Criminal Justice Commission, Faith Augustine, to provide a presentation on the history and models of Civilian Review Boards across the country. Ms. Augustine presented a PowerPoint entitled "Summary of Civilian Review Models". She began by explaining that many communities in the U.S have residents participate to some degree in overseeing their local law enforcement agencies. She stated that research shows that there were less than 40 civilian oversight agencies in 1990, and as many as 200 today. Many

programs were established in response to concerns expressed in the community about police accountability, however there is no single model of citizen oversight.

Faith explained that citizen oversight emerged in America as early as the 1920s, investigative models arose in 1970-1980s, and in 1990 the auditor/monitor (Office of Inspector General) model were created. In 2001, the National Institute of Justice published a study called "Citizen Review of Police: Approaches and Implementation" which included four types of oversight categories. In 2016, the National Association of Civilian Oversight of Law Enforcement (NACOLE) placed civilian oversight bodies in one of three classifications: investigation-focused, review-focused, and auditor/monitor focused.

Investigation-focused agencies routinely conduct independent investigations of complaints against police officers, may replace or duplicate the police internal affairs process, and are staffed by non-police, "civilian" investigators. Review-focused agencies often focus on reviewing the quality of completed police internal affairs investigations, may make recommendations to police executives regarding findings or request that further investigation be conducted, are commonly headed by a review board composed of citizen volunteers, and may hold public hearings to collect community input and facilitate police-community communication. Auditor/monitor-focused agencies often focus on examining broad patterns in complaint investigations, including patterns in the quality of investigations, findings and discipline, some auditors/monitors may actively participate in or monitor open internal investigations, and often seek to promote broad organizational change by conducting systematic reviews of police policies, practices or training and making recommendations for improvement. She noted that models have strengths and weaknesses.

A few examples of Investigation-focused models can be seen in San Francisco, CA, Berkley, CA, Flint, MI, and Minneapolis, MN. Jurisdictions with review-focused models include Rochester, NY and St. Paul, MN. Although Orange County, FL initially created a Civilian Review Board in 1995, it ended in 2009 following a lawsuit that deemed the board unconstitutional and in direct conflict with the Law Enforcement Officers' Bill of Rights. Auditor/monitor-focused models can be seen in Portland, OR and Tucson, AZ.

Faith closed her presentation by reminding members that civilian oversight programs vary significantly from one city to the next and even within the general categories. In some communities there are aspects of all the models (hybrids), and it should ultimately be a goal to find the best fit, rather than what seems like the best practice.

Local Issues:

Deputy Mayor Heslen gave a brief update for the next few presenters to include the status of current Kentucky state law, complaint processes, and collective bargaining agreements. She introduced Kendall Boyd to provide information related to the citizen complaint process. Kendall provided a review of Louisville Metro's current citizen complaint process, identifying four main avenues to report including LMPD, LMPD's Public Integrity Unit, the Human Rights Commission Citizen Advocate, and the Police Merit Board.

Next, Annale Taylor provided a review of current disciplinary processes. She stated that the Police Merit Board consists of five members and two police officers voted on by other officers. The process includes an avenue to appeal to the Circuit Court and Court of Appeals. The Citizens Commission on Police Accountability was created by ordinance in 2003 to review police investigations in all police shooting cases and incidents involving loss of life due to police action. The Commission advises the Mayor and Chief of Police on matters relating to the quality and adequacy of investigations and may make recommendations for changes relating to police policies, training and procedures. The Commission consists of 11 members approved by the Metro Council.

Hollie Hopkins explained that subpoena power is legislatively delegated from the General Assembly to any public body or agency. The two current delegations from the General Assembly to Metro Government are to the Police Merit Board, in connection with its investigations of police officers and to the Government Oversight and Audit Committee for the reviews and audits permitted in that statute (KRS 67C.14(b)). Hollie added that the General Assembly allows Metro Council a very limited ability to delegate its subpoena power to the Ethics Commission in connection with violations of the Metro Code of Ethics (KRS 67C.14(e) and KRS 65.003(7)).

3. Q and A

Deputy Mayor Heslen explained that due to the need to have this meeting conducted virtually under COVID-19 restrictions, Q&A was practiced slightly differently with a roll call of members to ask questions/make comment, with follow up after all had asked questions or made points. Questions/comments included:

- Councilwoman Keisha Dorsey requested further discussion on subpoena powers and asked for additional clarification on the operational Civilian Review Board model versus the review-based model.
- Keturah Herron raised a concern that information shared was only to the Mayor's Office comfort level, mentioned a need to examine the late Dr. Hudson's research and how the group should utilize the Center for Health Equity.
- Ricky Jones mentioned similar work and noted that Sadiqa Reynolds, Louisville Urban League was involved as well.
- Representative Nima Kulkarni addressed the fear and anger that is driving many events currently, and a concern over subpoena power.
- Edgardo Mansilla emphasized priorities of various processes and stressed that the group cannot wait until next January when the General Assembly meets again, that this reality should be faced now.
- John Marshall echoed similar comments about the importance of the group and expressed concern that the work is a stalling effort of smoke and mirrors. He emphasized the immediacy of action that is needed and for policies to be written around the groups' work in a timely manner.
- Senator Gerald Neal stated that if there is not significant systematic change, there is no point of the work group's exercise; the group should strive for identified results.
- Sadiqa Reynolds emphasized how baselines are necessary to understand what's in place currently; mentioned that Dr. Hudson and Dr. Nesbitt as past co-chairs for the Center for Health Equity efforts mentioned earlier. She encouraged the group to utilize the Office for Safe and Healthy Neighborhoods work but mentioned that

historically Metro Council has not been supportive. She encouraged the group to remain committed to seeing action.

- Judy Schroeder said she would like to learn more about subpoena power, who has independent authority, and how to address budget problems in follow up to Sadiqa's comments about Metro Council not always being long-term supportive.

In response to the questions/comments raised, Deputy Mayor Heslen noted that as it relates to multiple questions/comments about subpoena authority said that the group will need assistance from the County Attorney's Office on KRS 67C and Louisville Metro Government's abilities within the law, and more information for what would be needed at the state level. She asked Hollie Hopkins to present on additional research during the next meeting. In response to Councilwoman Dorsey's question on investigation-focused versus review-focused models, Faith explained that the investigation-focused models consist of independent agencies with non-civilian investigators and review-focused models include Civilian Review Boards that review and make recommendations on closed Internal Affairs investigations.

As it relates to the comfort level for the Mayor's Office, Deputy Mayor Heslen emphasized the purpose of today's exercise is to deep dive on possible options and ultimately prepare legislative proposals for Metro Council consideration for what may be best for Louisville. Regarding concerns about the timeline, she responded that timing is important to all members, and the work group has an aggressive timetable, where potentially by July there should be a legislative proposal for Metro Council. She thanked Sadiqa regarding the clarification on Dr. Hudson and Dr. Nesbitt research, and said they will look for those records. Deputy Mayor Heslen also agreed that using Health Equity research is a good idea.

4. Next Steps

Deputy Mayor Heslen reviewed the expectations previously set out for the next meeting of the work group scheduled on June 12 and advised that members should be prepared for a 2-3-hour long meeting. Hopefully by then some COVID-19 gathering restrictions would be loosened, and they could be together. She explained how the subgroups will do overviews and research on each model to make group recommendations so the County Attorney's Office can draft legislation. Councilwoman McCraney thanked the members for discussion so far, emphasizing that the previous evening gives pause for big picture charge of the work group. She echoed comments made for her work with the Metro Council last year on police accountability and noted that this group must decide what the best fit for Louisville will look like. Deputy Mayor Heslen spoke about the potential for state input, statutory changes, and reminded members of state legislator membership in the group.

5. Wrap Up

President James reinforced that the meeting was an informed discussion with good information and emphasized that the group cannot become just another group that meets to have a meeting. He stated that real reform and culture change at LMPD is needed. He expressed his commitment to seeing the efforts of this work group through. Mayor Fischer spoke about how it takes citizens in difficult situations to do something

about change and this group can create reform with that attitude. He urged members to use their influence to encourage peace among protests anticipated tonight. Deputy Mayor Heslen concluded the meeting and said more information about the next meeting to be held on June 12th will be sent prior to the meeting.