

# COMMUNITY OVERSIGHT TASK FORCE

## PUBLIC SESSION MINUTES

October 5, 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, Danielle Kushner, and Andrew Reinel. Valencia Johnson joined by phone.

Also present were:

Andre Davis, Baltimore City Legal Department

Summary of motions passed:

- 21 September 2017 minutes adopted without revision
- Budget submitted to OSI

### **I. Welcome**

Marvin McKenstry welcomed everyone to the meeting at 5:01PM

### **II. Adoption of 21 September 2017 minutes**

Jeff Anderson moved that the minutes be adopted without revision. Ed Jackson seconded, and the motion passed unanimously.

### **III. Civilian Review Board Responses to Questions from the City Institutions Sub-committee**

Valencia Johnson reported that she had submitted some questions to the Civilian Review Board (CRB) and Baltimore Police Department (BPD), and gotten partial answers (including data from the partial year 2017, but not five years of historical data, as had been requested) from the CRB but was still waiting on a reply from the BPD. In addition to requesting information from the CRB, sub-committee members had, Dr. Johnson reported, started observing CRB meetings (Andrew Reinel's report on what he observed at the 21 September meeting is below).

Dr. Johnson emphasized that the sub-committee is very concerned with remaining on schedule to complete their work and submit recommendations in their area of responsibility. She also reported that the sub-committee has been actively reviewing the Law Enforcement Officers' Bill of Rights (LEOBR).

Mr. McKenstry asked that all sub-committee members, when speaking with city agencies or other external actors, specify that they are speaking on behalf of their sub-committee when appropriate, so that agencies will understand why they may be contacted by multiple COTF members. He reminded the Task Force that he was planning to meet with Jill Carter, director of the Office of Civil Rights and Wage Enforcement, the following week.

### **IV. 21 September 2017 Civilian Review Board Meeting**

Following the 21 September COTF meeting, Mr. Reinel had attended a meeting of the CRB, arriving with approximately 1.5 hours in the CRB meeting remaining. He reported that consideration of new complaints occupied the majority of the meeting, and that it was interesting to see their deliberation

process first-hand.

Mr. Reinel observed that the CRB seemed fairly accessible on the internet through social media accounts, and that the meeting itself was streamed live on Facebook. By contrast, he said that the room in which meetings were held was on the small side, making it quite full even with only a relatively small number of community participants/observers (he estimated about seven, including a woman from outside the City whose county did not have a CRB). Mr. McKenstry added that the cost of parking in the area also made CRB meetings less accessible. Dr. Anderson observed that the meeting location was likely chosen for the convenience of the ORCWE participants rather than to limit the possibility of community engagement, and Mr. Reinel added that he was conveying observations, not making critiques or recommendations.

Mr. Reinel said that the CRB was still understaffed, and that he was told that candidates for the four vacancies on the nine-member board were still being vetted (which was what the COTF had been told as well during its first meeting in July 2017). Director Carter had told Mr. Reinel that she had been at the National Association for the Civilian Oversight of Law Enforcement (NACOLE) as well, and had been heartened to see heads of law enforcement agencies in attendance, though it was not clear that anyone from Baltimore's police leadership had attended. Director Carter had expressed interest in Chicago's oversight structure, especially the fact that it had a mandate to be funded at not less than one percent of the city's police budget.

The CRB, Mr. Reinel reported, also had a discussion in which members expressed concern over the fact that the CRB and the BPD both drew on the expertise of the City's Law Department, and CRB members felt that the department favored the BPD in disputes.

## **V. Upcoming Meeting with Director Jill Carter**

Mr. McKenstry indicated that he wanted to go into his upcoming meeting with Director Carter clear on COTF priorities, and a strong sense of the agenda.

Dr. Anderson added that it might be necessary to be clear with Director Carter and other contacts from the CRB that the COTF's mandate was to improve civilian oversight – which could mean recommending strengthening the existing CRB, or replacing it altogether. Mr. Reinel concurred, adding that if the COTF does its job thoroughly, there may well be issues on which the Task Force does not agree with the CRB.

He further suggested that meetings with the CRB should be focused, and designed/facilitated to ensure that the COTF could get the information it needed to make recommendations. Mr. McKenstry agreed that he would emphasize the need for the data requested by the City Institutions sub-committee. Dr. Anderson pointed out that it would be telling if the CRB were unwilling or unable to share the necessary data. Col. Jackson and Denise Duval pointed out that the CRB might simply not have the data – even though, as Ms. Duval noted, they are legally required to have it – rather than their unwillingness being evidence of any agenda. Dr. Johnson suggested that the COTF request general clearance/permission to enter agencies and requisition data at will; Mr. McKenstry replied that he preferred to build a cooperative relationship with the CRB, and that most data needed by the Task Force should be matters of public record, and not require clearance to access.

Col. Jackson said that, if the CRB process were to be fair, it was important to ensure that the presence of sworn police officers was handled properly. Even officers trying to be true to the principles of civilian oversight would still be beholden to the police command structure.

## **VI. The importance of training**

Col. Jackson added that he had met with Director Carter briefly at the NACOLE conference, telling her that training was one of his priorities. If we are going to strengthen the CRB, Col. Jackson argued, they need better training on police procedure, constitutional law, and other legal and practical considerations. Otherwise, civilians are put in the position of judging a process that is steeped in unfamiliar jargon and procedures.

## **VII. Remarks by City Solicitor Andre Davis**

Judge Davis requested some time from the chair, which was granted. He apologized for not having been able to make the 21 September meeting, as originally planned, and that he would not be able to attend the 19 October meeting, as the COTF had anticipated by that point. Judge Davis emphasized that he was “all in” on the consent decree process and, indeed, had left the federal bench specifically for the purpose of supporting the City of Baltimore in its reform efforts under the decree.

Judge Davis reminded the COTF that he could not serve as legal counsel to the Task Force, since his clients were the Mayor’s Office, the BPD, and the City Council, but that he wanted to be a “friend” to the COTF and support it and its members in accessing city agencies, and other ways he might be helpful.

Judge Davis also said that he thought it was unlikely the COTF would complete its mandate by the April 2018 deadline in the consent decree, and that he supported its extension, and possibly a broadening of its mandate. He expressed that he considered the COTF a vital element of community engagement under the consent decree, and hope that the COTF would coordinate with Shantay Guy of the Baltimore Community Mediation Center, who was working with the Independent Monitor team on their community engagement program. In addition, he noted, the concerns that the Department of Justice report raised were well-known to people in Baltimore long before Freddie Gray’s death, or the Department of Justice arrived, and were deeply rooted. Col. Jackson asked whether it was likely to be possible to extend the mandate, to which Judge Davis replied that the City would support the extension of the COTF’s tenure and that he believed Judge Bredar would also be in favor.

He also mentioned that the City (through its Foundation) was willing to serve as the fiscal agent for monies that the Open Society Institute – Baltimore (OSI) had set aside to support the work of the COTF, as well as any additional funds that might become available.

Danielle Kushner asked who ultimately decided which COTF recommendations would be adopted. Judge Davis replied that Judge Bredar would have significant say in which recommendations were adopted, since he had legal oversight of the case of which the consent decree was a part, but that all the stakeholders responsible for implementation would play a role. He reiterated his commitment to meaningful reform and change.

Daniel Levine asked how an extension of the COTF’s tenure would interact with the Citizens’ Advisory Committee recently proposed by Councilman Brandon Scott, which was also intended to create a permanent body similar to the COTF. Judge Davis said that he did not have an answer at that time. Mr. Reinel reported that he had reached out to Councilman Scott’s office for more information on the Committee, but was unable to get more information, and circulated copies of an article on the

Committee that he had found helpful for understanding it.<sup>1</sup>

As he left, Judge Davis invited the COTF to call upon him for support when necessary.

### **VIII. Open Society Institute – Baltimore Funds**

Mr. McKenstry and Ms. Duval next presented to the task force on the plan for funds that OSI had committed to COTF support. Mr. McKenstry said that he and Ms. Duval had endeavored to leave the budget open-ended as far as possible, but given the timeframe, a full discussion with the COTF was not possible. Mr. McKenstry gave the lion's share of the credit for arranging the funding with OSI to Ms. Duval.

Ms. Duval said that they had decided to use the City as a fiscal agent; following previous discussions, she had investigated other possibilities, but they were either too cumbersome or would have required too large a share of the funds in fees. She assured the COTF that, though the funds would be held by the City Foundation, the arrangement had been written such that the City could not control how the COTF used the funds. The funds were budgeted into four categories: salary for a research consultant/writer, site visits, bringing experts to Baltimore to testify before the COTF, and community engagement. Both Mr. McKenstry and Ms. Duval would be able to authorize funds for particular expenditures.

Dr. Kushner asked if it would be possible to shift funds between categories; Ms. Duval said that this was possible, but it did require OSI approval. Col. Jackson expressed appreciation for the support, and relief that it would be possible to hire a writer. Dr. Anderson asked if it would be possible for one of the COTF to stand as a candidate for the position of researcher/writer – after some general discussion of how to avoid the perception that there was a conflict of interests involved, the matter was set aside for the moment.

Mr. Reinel asked if printing costs for the final report had been included in the budget; Ms. Duval replied that those costs would likely be borne by the City. She also pointed out that the COTF could explore other sources of funding besides OSI, and said she had discussed this with Judge Davis. Mr. McKenstry encouraged COTF members to consider possible additional funders.

Dr. Anderson moved that the task force submit the proposed budget to OSI. Col. Jackson seconded, and the motion passed unanimously.

### **IX. Sub-committee reports**

Mr. McKenstry noted that Dr. Johnson had discussed the work of the City Institutions sub-committee when she addressed the questions she had submitted to the CRB and BPD earlier; Dr. Johnson and Col. Jackson concurred that that discussion could serve as the sub-committee's report.

Dr. Kushner said that the community engagement sub-committee had divided up the task of contacting police districts for input on reaching out to the communities they served. One task would be to get lists of community leaders from the police (as well as other sources) to ensure, as far as possible, that no one would feel left out of the process. Sub-committee members discussed the status of reach-out to the districts, which were all currently in progress. Dr. Kushner said that the sub-

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<sup>1</sup> Luke Broadwater, "Councilman Scott Proposes Citizens Committee to Advise Baltimore Police," *The Baltimore Sun*, 24 April 2017.

committee still needed to devote more discussion time to the particular questions to be asked of community leaders, as well as at forums.

Mr. McKenstry added that it would be important to ensure there was some consultation with members of the activist community who had been engaged with police reform, not only so that they did not feel left out, but also so that they would be less likely to try to use public forums to press their organizational agenda. After some discussion, the consensus was that it was important both to genuinely listen to the points made by organized activist groups (and note that they were consulted in the final report) but also to ensure that the public forums were primarily a venue to hear from individuals in the community who were not advocating on behalf of an organized group, and that the COTF's engagement with organizations was deeper than an opportunity for them to reiterate what was in their published materials.

## **X. Next Meeting**

Col. Jackson expressed disappointment that Judge Davis would not be able to attend the 19 October meeting, being held at the Baltimore City Community College (BCCC), as BCCC students and faculty had been excited for him to come. He was especially concerned that the meeting give students an opportunity to see how the task force operated while encouraging them to use their education to become civically engaged.

Mr. McKenstry suggested that, since the original plan had been to devote a significant amount of time to Judge Davis, the COTF could instead expand the time available for a question and answer session with students. Col. Jackson said that he could also expand on his report from the NACOLE conference. Dr. Anderson expressed concern that an open-ended Q&A session could turn into an unplanned forum, while Dr. Kushner expressed an interest in giving the students an open opportunity to engage with the COTF. Col. Jackson said that he had confidence that BCCC would be able to provide a strong moderator, and that the students would be inquisitive but "ruly." Ms. Duval suggested that the students be allowed to ask questions, and then given some time at the very end to share their own ideas about improving police accountability. Mr. McKenstry suggested that it might be helpful to solicit student volunteers to help with facilitation.

*The meeting was adjourned at 6:59PM*