



## **Policing Advisory Commission**

**Monday, Nov 8, 2021**

**Virtual Meeting**

**6:30 – 8:00 pm**

**Meeting Minutes**

**Commission Members Present:** Dalbin Osorio, Vernon Ricks, Shabab Mirza, Caroline Fredrickson, Eric Sterling, Alicia Hudson, Robin Gaster, Jenn Lynn, Cherri Branson

**Ex-officio Members Present:** Cate Brewer, Chief Jones

**Commission Members Absent:** Jasmine Williams, Nadia Salazar, Justice Reid, Jerome Price

**Support Staff:** Susan Farag, Carlos Camacho

**Guests:** Heidi Rhodes (JUFJ; [hrcapitals@gmail.com](mailto:hrcapitals@gmail.com)), Mikhael Gaster ([mikhaelgaster@gmail.com](mailto:mikhaelgaster@gmail.com)), Lillian Cruz (Staff for CM Albornoz), Taman Morris (MoCo OMB), Nicholas Augustine (MCPD), Peter Francis, Laura Wallace (JUFJ), Robert Landau (SSJC)

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**Meeting was called to order at 6:37pm**

### **Agenda:**

- 1. Attendance and Recording of Meeting:** Mr. Camacho took attendance and began recording the meeting. All guests were asked to enter their name, any organizational affiliation, and their contact information into the chat. Guests were invited to share their thoughts and comments in the chat with the understanding that Commissioners may keep these for their own records and that comments may be made public in the event of an MPIA request.
- 2. Discussion with MCPD on Traffic Enforcement** - Dr. Gaster led the meeting and posed various questions to Chief Jones regarding MCPD's traffic enforcement policies and practices:
  - In response to the PAC's previous questions MCPD said: "Our progress is measured by "Efforts", or the amount of time and resources that are devoted to any area of the County. Our efforts are measured by results that are measured as "Outcomes". Outcomes come in the form of a written warning, citation, or emergency repair order." Would like to ask if that is really what the County thinks because it doesn't mention safety?
    - Chief Jones – Safety is an important component of that but we do measure our traffic safety efforts by the amount of dedicated hours of work and high visibility enforcement of the most dangerous behaviors on our roadways. Also, reducing traffic collisions is a major part of why we conduct traffic enforcement. Traffic safety is important when you understand that we have more traffic fatalities in this County than we do homicides. We have serious issues with drunk driving. We also try to ensure pedestrian safety as well and this is a high priority. We work in coordination with other agencies (e.g. State Highway Administration and MCDOT) not just to do enforcement but to engage in education and focus on engineering of roadways.
    - Dr. Gaster – what you are calling an output is really an input, the outcome would be traffic

- accident reduction.
    - Chief Jones – Well by working with our Vision Zero Program and the three Es (enforcement, education, engineering) we have been able to reduce pedestrian collisions by 30%. There are also other outcomes like removing drunk drivers from roadways. There are other statistics to show impact and this is one of the reasons we went to a Central Traffic Unit (CTU) because we put efforts on these high visibility networks not only to reduce collisions but to also improve the flow of traffic.
- Dr. Gaster – My understanding of the CTU is that it is designed to use data driven policing to concentrate on major roadways and focus on the three Es you mentioned before, which makes a lot of sense. But my understanding is that 80% of traffic stops are still made by patrol officers, is this true?
  - Chief Jones – We are still gathering data on that since the CTU only began on July 1, 2021 but there is a larger pool of patrol officers. MCPD currently only has approximately 20 CTU Officers for 498 square miles and again they only focus on our major roadways. There are 600+ patrol officers working 24 hours, whereas CTU Officers generally work 18 hours/day. Patrol officers are more than likely going to have more stops than the CTU officers.
- Dr. Gaster - Can you talk about your perspective and your experience as a District Commander and how you managed traffic enforcement in the district you commanded?
  - Chief Jones – Patrol Officers have many different functions operating within a district, not just traffic enforcement. First, they must answer calls for service. There are also specific crime and quality of life issues within that district that officers need to respond to. A District Commander is also responsible for all of the different communities in a district and the specific concerns coming from those communities. As a District Commander, I would assign a beat Sergeant or his/her officers to address those complaints. There are also expectations that officers are monitoring traffic safety to ensure drivers are driving safely. The main focus is the legitimacy of a traffic stop and the safety concern you are trying to address.
- Dr. Gaster – During your time as Commander, did you have any help from the central office in identifying areas where your district had problems? Do you have district level plans for enforcement? How are they developed? What do they look like? Who assesses whether they are working?
  - Chief Jones – The assessment and direction would come from centralized traffic division. The division has a traffic analyst that analyzes collisions across the County. For each district, they specify the hotspots for traffic/pedestrian collisions. Also, we work with the state to implement grants for educational campaigns to ensure safe pedestrian activity. We would focus activities based on the monthly analyses we received from the traffic division and the commander would be held accountable to ensure there was a focus on reducing the number of collisions in our district.
    - Dr. Gaster - it would be great if we could get an example of those plans and messages.
    - Chief Jones – I would be happy to share that information.
- Dr. Gaster – One of the concerns are the racial disparities in traffic stops. There is evidence that there are racially disparate outcomes even in Montgomery County. Has MCPD undertaken its own studies on racial disparities in traffic stops?
  - Chief Jones - No we have not.
- Dr. Gaster – How do you balance the need to find objective measures of performance, bring in traffic enforcement as part of that, yet still not give incentives for making stops for the sake of making stops?
  - Chief Jones – Every police officer or each district is not the same, so you have to look at the type of activities and the environment that the officer is patrolling because it differs greatly. There are no quotas for issuing tickets or making a certain number of contacts per shift to show that you are doing something constructive. There are many different aspects that officers are involved in including community engagement. Within MCPD’s rating system there are three categories that only focus on traffic for patrol officer – 1) traffic enforcement; 2) accident investigations; 3) driving under the influence of drugs/alcohol enforcement. There are expectations that officers either meet, exceed, or fall below. For traffic enforcement, the expectation is that you detect traffic violations and take appropriate action, which includes but is not limited to – parking tickets, warnings, physical arrest, etc. and other selective

enforcement that may be required. For accident investigation, officers must respond to an accident and make assessments of injuries, damage, and impacts on traffic. Officers must also investigate the accident properly and issue citations as appropriate. The final category of driving under the influence is that you identify drink drivers, effect arrest, and process the individual suspected of drunk driving or under the influence of drugs per department procedures. Officers who make traffic stops must appear in traffic and criminal court. We receive feedback from judges as to whether an officer understands traffic laws.

- Dr. Gaster - What share of the overall rating comes out of those three traffic categories?
  - Chief Jones – It only constitutes a small part because its part of a holistic rating system that looks at an officer on many aspects like community engagement, criminal investigations, report writing, follow-up investigations, etc. Officers receive feedback on all of these categories using examples from where they have had an impact.
- Dr. Gaster – Are you in favor in a substantial increase in red light cameras and speed cameras? Would this be a positive step for the County?
  - Chief Jones – We are already in the process of expanding our red light and speed cameras across the County as we work with a new vendor. We will more than likely double the number of cameras we have over the next three to five years from what we have now. So we are in support of additional cameras on our roadways.
- Dr. Gaster – We have been told that the state has been reluctant to allow additional cameras on major state roads and about 1/3 of MCPD camera requests have been denied. Can you tell us more about that? Why would the state stand in the way of this and is this a significant problem?
  - Chief Jones - It is fair to say that the state has presented somewhat of a barrier particularly with regards to red light cameras on state highways. There is a significant barrier in the sense of the logistics of where the cameras are being placed and the studies being done. For example, the state tells us that they do not want us to place red light cameras at a particular intersection because they fear that this will cause more collisions, such as rear end collisions, because people will make abrupt stops if they know the cameras are there. There is some evidence of that so we can't totally dismiss those concerns. The state is the ultimate gate keeper on red light cameras in the County. The state does do extensive studies to ensure there is no government influence on the process and that the data dictates the need for cameras at particular locations.
  - Dr. Gaster – But the program is expanding in places where MCPD has more control and say over?
    - Chief Jones – Yes, on County roadways.
- Dr. Gaster – There is evidence of significant racial disparities in traffic enforcement in the County. For example black drivers make up only 20% of the County population but make up 38% of traffic related arrests, 47% of searches, and 62% of probable cause searches. We don't know exactly why there are disparities but there seems to be no doubt that there are, so what does MCPD plan to do about that?
  - Chief Jones – To this date there has been no study done by MCPD on racial disparities and even the OLO Report that you are referencing, the study was done using census data and, I and others, believe that the OLO analysis is flawed because you are not looking at the driving population. We have a large commuter base that drives through the County and are bordered by other areas (e.g. Prince George's County) that are majority African American. I think there needs to be an investment and a true study done to dive into why people believe that MCPD stops and treats people of color differently. With that being said, one of the reasons we went to a CTU model is because we want to ensure that we are looking at the data and doing traffic enforcement in areas because there is a legitimate public safety reason to do traffic enforcement. We are only there to judge the driver's performance. There is no way an officer can know the race of a person when deploying radar/laser to detect the speed of a vehicle.
    - Dr. Gaster – But if you set radar/laser in an area with a predominantly minority population then you are going to stop predominantly minority drivers.
    - Chief Jones – I don't disagree with that but that goes back to my point about the public safety reason that we are in that location in the first place. Understanding the public

safety goal is really how you determine the legitimacy of the enforcement activity. We can't control who lives in a particular community but what we can control is responding to a particular safety concern. What we can control is how we handle and interact with the violator once the stop is made. Are we treating all people the same (e.g. treating all people with respect and ensuring the same outcome for the same violations). We write many more warnings than citations and this is something a camera cannot do – write a warning, have discretion, and educate.

- Dr. Gaster – I take your point about census data in that we don't know the exact racial or ethnic make up of drivers in the County because the state doesn't require racial/ethnic info on a driver's license and really no one can ever know the accurate count of drivers by group in the County but that doesn't mean we can't do any studies or draw and conclusions. We have to work with what we have.
  - Chief Jones – We have spoken with experts and there are other studies that you can conduct that would provide a better analysis.
  - Dr. Gaster – Do not think that there is a better alternative data source in this state. Unless there are other data on licenses or car registrations then this is the data we have and must use. Second, I think that you are correct that we have to look at the rate at which people are stopped and the outcome but this is still difficult to disentangle. You also mentioned that warnings are issued more than citations and that is true for everyone except Hispanics. I suspect that this is because of the language barrier but we don't know why. Suggest that someone do a study on the difference between daytime and nighttime stops.
- Mr. Osorio asked Chief Jones questions posed by other Commissioners:
- From Ms. Branson - Are the District commanders following the same traffic enforcement priorities as the traffic unit?
  - Chief Jones – As the CTU, no, it's two different focuses. The District Commanders are responsible for all community complaints in their districts that are on the secondary, not major arterial roadways (e.g. residential roads).
- From Ms. Branson - Please tell us what you believe is the reason for the disproportionate rate of traffic citations along racial lines?
  - Chief Jones – I don't know that answer to this question. It begs the question about what drives officers to write the traffic citations and the reason for writing warnings. What I would like to see more of in the data is where are those racially disparate stops occurring because that goes back to the legitimacy of the stop. This is something that we are going to try to get out of our data to do an analysis.
- From Mr. Sterling - Has the Internal Affairs Division (IAD) analyzed officer misconduct in the context of traffic stops? What does this analysis reveal?
  - Chief Jones – I wouldn't say that IAD has analyzed this but this is reviewed because any complaint that comes into IAD is shared with the District Commander of that officer. The body worn camera allows us to see that interaction as we address that complaint. So if we know that an officer receives multiple complaints (e.g. three in a year) we flag that and address that with the officer.
- From Mr. Sterling - In reviews of the use of force, what fraction of complaints arise out of traffic stops?
  - Chief Jones – I don't know those number but from what comes across my desk, I would say that very few complaints regarding use of force arise from traffic stops. We see use of force complaints arise from other types of interactions.
- From Ms. Hudson - PAC has received comments from the public regarding the conduct and demeanor of officers who has stopped their vehicle. One of the comments came from a father who was driving with his wife and children in the back seat. He stated that the officer was mean and aggressive, repeatedly asking to search their vehicle, which the driver refused, and was eventually allowed to proceed on. I believe the stop was for a broken taillight, the question is do you have any recommendation for changes in training of officers in how they conduct themselves during traffic stops?
  - Chief Jones – Officers are trained to be cordial and treat the public with courtesy and that is the expectation for any interaction with the public. In January of this year, I changed the policy

involving traffic enforcement so that when an officer conducts a traffic stop, they shall detain the person for as long as necessary to complete the procedural requirements of that stop. For example, if you are stopped for a moving violation then an officer is to handle that stop as quickly as possible and to not be on a fishing expedition requesting multiple times to search a vehicle. This policy states that unless an officer has reasonable suspicion of criminal activity that can be articulated then you write a ticket and let that driver go. Also, all traffic stops require documentation of the stop.

- From Mr. Osorio – For each stop, is there an average time that you are telling officers to spend on traffic stops?
  - Chief Jones – There is no set timeline because all interactions are different. An officer could have a conversation with an individual or a computer driver's license check could take longer in some instances. Generally, we don't want stops to last more than 5-10 minutes unless there are other extenuating circumstances.
- From Ms. Hudson - Do officer complaints from the public have any bearing on their rating for "community engagement"?
  - Chief Jones – Absolutely, a supervisor will note the number of complaints an officer received in their rating and how that was addressed. If there are deficiencies found in an officer's performance than we will assess if there are corrective actions that need to be taken (e.g re-training) in order for the officer to understand that this is unacceptable.
- From Ms. Hudson - Given the OLO data showing racial inequity in traffic enforcement, do you have any ideas for effective change to create/encourage more equitable traffic enforcement; i.e. to address the racial disparity in traffic enforcement?
  - Chief Jones – I would like more data and need more information on where we are conducting stops and why. Commanders report out on the issues they are seeing and hearing about in their communities and we try to address those issues. We also try to find opportunities to work with organizations to help educate the community on the issues that are occurring and the steps that can be taken to address those issues in an equitable way.
- From Dr. Gaster – I think we need to distinguish between 1) directed traffic activity from CTU, traffic directives from the district commanders as a result of community complaints/concerns or MCPD analysis and 2) undirected activity that patrol officers do in the normal course of their work that we have little data on. It seems like we can't really distinguish between these two categories, is that right?
  - Chief Jones – This is right because as a patrol officer you are responsible for patrolling an area and while driving you are looking for driver safety and if vehicles are violating the law then it is the officer's responsibility to stop that vehicle. From the CTU, we are going to be able to see the data regarding where they are focusing on and the impact of their actions. We are going to be working with our District Commanders to get a list of locations and issues they are aware of and the types of interventions taken by officers.
- Dr. Gaster – Last week, the Philadelphia City Council voted that seven categories of minor traffic offenses were no longer grounds for stopping someone. Would you be interested in pursuing that type of limitation?
  - Chief Jones – No, I would not, because if a car is driving with no taillights down a road with no streetlights, I would deem that dangerous. In MD, one of the benefits that people have is that in an instance like this, you just get an equipment repair order not a ticket. I think Philadelphia is a different situation because it's so urban. Montgomery County is different in that there are areas that are dark and a vehicle without headlights could create dangerous conditions. From that perspective I am not supportive of this type of policy as I don't think it would create safer conditions.
- From Mr. Sterling - In the example of the morning rush hour at the corner of Georgia Avenue and Colesville Rd (a short distance from the Paul Sarbanes Transit Center) in Downtown Silver Spring, if each workday's morning rush hour is about 3 hours, then over 20 workdays per month, that's 60 hours. Double that to include evening rush hour -- 120 hours. How many hours per month would an officer be assigned to policing dangerous behavior at such a key intersection? There are, as you noted regarding

Colesville Rd from Burtonsville south to Silver Spring, on the one highway there are easily a half dozen intersections where there is dangerous cross traffic, left turns, and pedestrians walking and running to catch a bus or to cross the highway. How many hours per month might be devoted to protecting safety at such intersections?

- Chief Jones – Keep in mind, there are a limited amount of CTU officers (between 20-25) and those officers are split between day/night shifts (6am to 2pm and an overlap of 12pm to 10pm), as well as their other duties such as investigating traffic collisions. These officers cover all six police districts but they will put as many hours as possible on both am and pm shifts if that is what the division director and the district commander have agreed on with regards to the deployment of officers.
- From Mr. Sterling - What is the role of the Maryland State Police (MSP) in traffic enforcement on roads in Montgomery County aside from the Interstate highways? How granular is the cooperation between MCPD and MSP to assure that the efforts are complementary and supportive of the priorities identified by the MCPD? How routinely does MCPD formally communicate to each District Court Judge that MCPD desires to hear from them regarding the quality and credibility of the testimony of MCPD officers?
  - Chief Jones – MSP is primarily responsible for I-495 from New Hampshire Ave to the American Legion Bridge and I-270 from the spur to the Fredrick County Line. Generally, they have 2-3 troopers working on any given shift. We work with them, particularly the traffic unit on selective enforcement. We will do certain enforcement details with them (e.g. reckless motorcycle activity, car meet ups, drag racing, etc.). We have relationships with judges, particularly the administrative judges but would not say we are in communication too often. I do have an open line of communication with the Administrative Judge at the District Court and meet with her monthly on the Criminal Justice Coordinating Commission.
- From Ms. Hudson - Do you anticipate using the data from the ELE4A audit to come up with tangible solutions to address some of these issues with traffic enforcement and other issues?
  - Chief Jones – Yes, we are hoping that the audit will contain some recommendations that we are able to implement.
- Mr. Ricks – One of my concerns with traffic enforcement, and I don't agree with the Philadelphia approach, is when people don't use their headlights during storms. To me this is a real safety issue. Would also like to extend my condolences to the family and the department for the passing of Lieutenant Fritz who we lost recently in a traffic accident.

### 3. Meeting Adjourned at 7:59pm