



Communities United Against Police Brutality™

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September 23, 2017

Governor's Council on Law Enforcement and Community Relations
c/o Mr. David Collier
Office of Governor Mark Dayton & Lt. Governor Tina Smith
130 State Capitol
75 Rev Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Submitted 9/23/17 via email to
David.collier@state.mn.us and
all council members and staff

Dear Mr. Collier:

Attached please find our preliminary input into the draft final recommendations of the Council. Please share this report with the entire membership of the Governor's Council on Law Enforcement and Community Relations.

Please also provide us with information on opportunities to submit input on the final recommendations.

We are happy to answer any questions regarding this preliminary input into the draft final recommendations.

For justice,

Michelle Gross/es

Michelle Gross, President
Communities United Against Police Brutality

ANALYSIS
Governor's Council on Law Enforcement and Community Relations
Draft of Final Report

Communities United Against Police Brutality
September 23, 2017

On September 12, 2017, the Governor's Council on Law Enforcement and Community Relations held a meeting to present the draft of their final report and vote on their recommendations. Unfortunately, that report is quite incomplete. Nonetheless, this may be the last opportunity for the community to have input into the council's final recommendations. This document serves as our analysis and input on these draft final recommendations

Process

There are several issues related to the formation, governance and operation of this council including frequent violations of the state's Open Meeting law and a lack of opportunity—and multiple demonstrations of outright disdain for--community involvement and input into this process. We have noted these issues through our input into the initial recommendations as well as through emails and other communications. Nonetheless, these issues have persisted.

At this point, we seek to have input into the final recommendations. However, this is difficult as the final recommendations as presented at the September 12 meeting are not actually final. Further, **there appears to be no actual mechanism for accepting and incorporating community input into the final recommendations.**

Report Introduction

The Governor's Council report introduction includes information explaining and attempting to justify the formation and work of the council. However, this information presents a number of problematic issues and actual falsities:

- The first paragraph of the introduction states that “Clark and his girlfriend...” Testimony by Ray Ann Hayes and others has shown that Ms. Hayes was never Mr. Clark's girlfriend. Inaccuracies should not be memorialized in state documents.
- The second paragraph briefly outlines the police killing of Philando Castile and includes the passage “...and had one hand in his pants pocket...” A member of CUAPB attended the entirety of the Yanez trial and at no point was it even alleged that Mr. Castile actually had his hand in his pocket. Ofc. Yanez shot and killed Mr. Castile when he moved his hand toward his pocket after being directed to retrieve his wallet. Again, accuracy in state documents is essential.
- The fourth paragraph seems to indicate that community concerns with policing are limited to people of color and Native American people. However, people who are differently-abled, autistic, LGBTQ, experience mental illness, survivors of police brutality, family members of people killed by police, and others have expressed grave concerns with policing in Minnesota. Sadly, many of these constituencies were never at the table.

Given that half of people killed by police are struggling with mental health issues or

other disabilities¹ it should have been especially important for the council to acknowledge this population and to make specific efforts to gather their input.

- On page 2 of the draft report, a graph from a 2016 Pew Research Center study indicates that the public is twice as likely as police officers to view fatal police-black encounters as systemic but the text in the report itself (not in the graph's caption) says the opposite.
- Framing: There remains an ongoing issue with the framing of this report and, indeed, with the framing of the work of this council. The emphasis has been on "building trust." and on "police/community relations" with notes of "building police legitimacy" mixed in. **This is a false framing.** The issue is QUALITY of policing and the general LACK OF ACCOUNTABILITY of police. As we have pointed out frequently to this council, if police were held accountable for their actions in meaningful ways, police misconduct would largely disappear and trust and police-community relations would improve on their own with no special efforts needed. Yet the council didn't even have a working group that addressed accountability and none of the recommendations in the other working groups address accountability directly.

Council Make Up

This section of the draft report has not been completed. However, there is no disputing that appointments to the Council were made without input from the community. Important stakeholders have had no place at the table.

Community Engagement

Despite citing a guide on community engagement in its report, the council not only made it difficult for the community to attend their regular meetings but they took no action to collect community input until far into the process. Despite starting in November 2016, the council did not seek community input until May 2017.

The report incorrectly states that five listening sessions were held. In fact, there were four such sessions held, as noted in the document "Community Listening Session Summary" which will presumably be one of the appendices to the report. Three of those sessions were centered around the Twin Cities, with one session in Duluth. Most of the outstate was simply ignored in this process.

This summary purports to provide "common themes" heard in the sessions. By grouping the community's comments in this way, specific recommendations that were made during many hours of testimony are so completely watered down that important details are lost. Yet it appears that even this "watered down to make it more palatable" input was not incorporated into the final recommendations. Thus, it is fair to say that community input was not taken into account in any meaningful way in the final recommendations presented by the council.

This Community Listening Session Summary includes a section on "lessons learned." The state presumably paid consultants Karen DeYoung and Ruben Vasquez their going rates for facilitating these listening sessions yet they were so poorly conducted that many people in the community expressed outrage over the lack of notice of the sessions, poor scheduling (during weekday hours when most people are working and in inaccessible locations), inability to

¹ Half of People Killed by Police Have a Disability: Report. NBC News. March 14, 2016, <https://www.nbcnews.com/news/us-news/half-people-killed-police-suffer-mental-disability-report-n538371>

access the council's preliminary recommendations in advance of the sessions, lack of access for limited English proficiency community members, and other basic aspects of community engagement.

The "lessons learned" section also notes that the final recommendations of the council "should be released to [the] public in advance before they are finalized and approved by the Governor and Legislature." It remains to be seen if this will, in fact, be a lesson learned.

Process

The process section of the council's final report lists presentations to the council. It is interesting to note that there were no presentations by organizations that focus on police accountability or even legal rights organizations such as the Legal Rights Center, the American Civil Liberties Union or the National Lawyers Guild. Such presentations would have provided a unique perspective outside of the multiple law-enforcement focused presentations the council received. We made this suggestion to the council early on but it was not acted on.

Recommendations

Before commenting on each work group's recommendations, we need to note that there is significant overlap in recommendations between work groups which decreases clarity for the recommendations as a whole. Further, a number of recommendations are unnecessary as they were already included in the last legislative session's Public Safety Omnibus Bill, which was signed into law and incorporated in Chapter 95 of the Minnesota statutes.²

To the highest degree possible, recommendations from the council must be evidence-based and reflect best practices. They must also be clear and measurable. Unfortunately, it does not appear that the process included researching best practices to ensure that recommendations are effective and measurable.

It appears that there will be significant reliance on the Policy Development and Implementation Work Group to clarify these vague recommendations and turn them into actionable items. Unless there is a final review of the work of the Policy Development and Implementation Work Group, the community will be denied the opportunity to have input into the clarification and implementation of the action items.

Criminal Justice and Social Reform Work Group

The report states that this work group believes that reforms "can be advanced by building trust and communications." We've already shown that this is faulty framing.

- Recommendation 1 calls for data collection on racial/ethnic breakdown of police stops and of community members injured by police. This recommendation is good on its face but there is little information on how this information will be gathered, who will do the gathering, and what will come of the data. Further, there is already collection of some of these data points by various organizations but the information has not been used to inform policy or practice changes.

² Text of HF0470, which was signed into law on 5/22/17 and filed with the Secretary of State 5/30/17, Chapter 95. https://www.revisor.mn.gov/bills/text.php?number=HF470&version=B&session=ls90&session_year=2017&session_number=0&type=ccr

- Recommendation 2 focuses on “including” a special prosecutor in police investigations that will presumably be conducted as they are now. There is no reason for this recommendation as prosecutors are already free to hire additional “help” in difficult cases. This recommendation falls far short of what is truly needed—an independent special prosecutor with sole responsibility for overseeing the investigation and prosecution in critical incidents involving law enforcement officers. The interdependence of county attorneys and law enforcement officers inhibits the ability of county attorneys to hold errant officers accountable. That only one officer in the history of the state of Minnesota has been prosecuted in the shooting death of a community member is ample evidence that the council’s recommendation is far too weak to be effective in holding officers accountable.
- Recommendation 3 is to support HF346, a legislative bill for funding for training in crisis response, conflict management, and cultural diversity. This recommendation is completely unnecessary as the elements of this bill were included in the Public Safety Omnibus Bill, which was signed into law and incorporated in Chapter 95 of the Minnesota statutes (see footnote 2).

Police Training Work Group

This work group notes the daunting task of training over 10,000 officers and, thus, does not set deadlines, training outcomes or other important details. Instead, they opt for broad training topics with vague learning objectives and with no direction as to delivery method or other important training criteria.

The broad topics include training in de-escalation, crisis response, conflict management, cultural diversity and implicit bias training. All of these training topics have already been funded during the last legislative session as part of the Public Safety Omnibus Bill, which was signed into law and incorporated in Chapter 95 of the Minnesota statutes (see footnote 2). Thus, the training work group recommendations have been rendered moot.

As noted above, included in the recommendations is a call for implicit bias training. It is unfortunate that this training was included in the Public Safety Omnibus Bill and is now ensconced in law. Implicit bias training is, quite frankly, an unscientific fraud. The scientific literature regarding implicit bias training shows that the enduring effects of the training are negligible. A 2016 study by Dr. Calvin Lai of Harvard found that implicit bias training showed no measurable effect lasting longer than 24 hours. Further, this training failed to show any effect on explicit biases or behaviors. In other words, implicit bias training is utterly worthless.³

Unfortunately, this work group did not adopt the community suggestion that they add a recommendation to prohibit attendance and funding for “bulletproof warrior”-type training. These courses are inflammatory, breed an “us vs. them” mentality, are not based on law enforcement best practices and current thinking, and are often provided by unqualified individuals and organizations. Ofc. Jeronimo Yanez completed one such course just months before he killed Philando Castile. Training dollars should never be used to reimburse the costs of these courses. Continuing education units should not be granted for these courses.

³ Reducing Implicit Bias Preferences: A Comparative Investigation of 18 Interventions to Reduce Implicit Racial Preferences at <http://www.academia.edu/download/30496659/SSRN-id2155175.pdf>

In our response to the council's initial recommendations and in multiple communications to the Police Training Work Group directly, we recommended peer intervention training and provided resources on the training itself and the efficacy and cost savings produced by this training. We are disappointed to see that this training was not even considered by this work group.

Workplace and Policy Oversight/Diversity Recruitment and Retention Work Group

- Recommendation 1 is a vague suggestion for police departments to be made more racially diverse and recommends “measuring and understanding the scope of the issue.” Data on the racial makeup of police departments is already widely available so it is hard to understand the value of this recommendation.
- Recommendation 2 is for funding for a “pathway to policing” program to recruit people from non-traditional backgrounds into law enforcement. This recommendation includes expanding the Law Enforcement Training Opportunity program beyond the State Patrol and utilizing the CSO program to create training-to-work opportunities. This recommendation seems good. However, the Pathway to Policing program was already funded during the last legislative session as part of the Public Safety Omnibus Bill, which was signed into law and incorporated in Chapter 95 of the Minnesota statutes (see footnote 2). Thus, at least part of this recommendation was rendered moot during the last legislative session.
- Recommendation 3 seeks to create a statewide recruitment mechanism and recruitment via social media, public service announcements and other media. This seems to be a valuable recommendation, though it might have been useful to study the efficacy of various recruitment strategies in law enforcement or similar fields to make this recommendation more robust.
- Recommendation 4 raises the issue of hiring disqualifiers that more likely impact potential candidates of color and proposes the creation of uniform qualifiers and disqualifiers to reduce the subjective nature of hiring decisions. This appears to be a good recommendation, though it is unclear which disqualifiers are in place currently that more likely impact potential candidates of color. This needs to be studied.
- Recommendation 5 advances the idea of 20 hours of community service for new officers. We support this recommendation. However, another part of this recommendation promotes the idea of incentives for officers to reside in the community in which they work. A review of academic studies shows that residency incentives decrease the diversity of the police force and are associated with less satisfaction by the community with the quality of policing. Please see our attached document on residency incentives. This part of recommendation 5 should be removed.
- Recommendation 6 calls for a revision in the curriculum of the Minnesota Chiefs of Police Leadership Academy to ensure it instills “cultural proficiency” and inclusive values. This recommendation seems fine.

Community and Law Enforcement Health and Wellness Work Group

This work group states that their focus is on both law enforcement and community wellness and makes their recommendations accordingly.

- Recommendation 1 involves developing a strategic plan to mitigate the immediate effects of critical incidents through identifying community leaders to hold meetings and recommends various stress management and employee assistance strategies for officers. These may be helpful for managing the effects of critical incidents. Unfortunately, though, there is nothing anywhere in these recommendations or this report that would prevent critical incidents in the first place.
- Recommendation 2 advocates community meetings and includes broad references to community policing. This recommendation is exceedingly vague and there is little that is actionable and nothing measurable about this recommendation.
- Recommendation 3 proposes explaining the investigatory and disciplinary process to the community as a means of building trust. This recommendation is insulting to the community and falls far short of what is needed. The community is not dismayed over the disciplinary process because we don't understand it. We are frustrated because no matter how egregious the conduct, police are not held accountable and don't even experience the same process as regular community members. The fact that a Minneapolis police officer admittedly killed a completely innocent woman in July 2017 but has not been arrested and remains free in the community on a paid vacation exemplifies the double standard applied to police officers.
- Recommendation 4 is a recap of the previous recommendations, especially recommendation 1. It states "officers and community members must come together to identify root causes" of trauma. This is completely naïve when much of the trauma is caused by unjust actions by police that occur without consequences. The community is clear on the root causes but it appears that this council is not interested in addressing them.

Conclusion

After 11 months of work, the final recommendations by the Governor's Council on Law Enforcement and Community Relations are generally vague, thus difficult to implement and unmeasurable. Community input was discouraged and was not incorporated in meaningful ways into the final recommendations. Further, recommendations are based on the false framing of "police/community relations" and "building trust." Thus, the recommendations are far weaker than they should be and much less than what the community deserves.

The most glaring void is that the final report includes no recommendations that directly address the current lack of accountability for officers who engage in misconduct. Without addressing this important element, little progress can be made in the stated goals of the Council.

No matter how many more members of the community are killed by police officers, those in power seem to continue their commitment to learning nothing from past experience. When police kill the next person, do not wonder why the Governor's Council recommendations failed to prevent it. There's nothing in these recommendations that can or will decrease the likelihood of it happening again.