

Weeden, William (Community Oversight Board)

From: Anderson, Steve (MNPB)
Sent: Tuesday, September 17, 2019 9:35 PM
To: Weeden, William (Community Oversight Board)
Subject: RE: Special Meeting Community Oversight Board - 9/18/19

Mr. Weeden,

Thank you for your invitation. The following will address the three issues you have identified for discussion during the meeting.

I will start with your *Number 2*.

Determine the methods and status of MNPB critical event notifications from the Metro Department of Emergency Communications ("DEC") to MNCO:

You contacted me on Saturday, September 7, 2019, complaining about the lack of notification to your office concerning the police involved shooting the night before.

The following is a timeline of our discussions concerning call outs:

(1) Our Wednesday, May 1, 2019, Meeting:

Starting with a scenario question, you raised the subject of call outs. I advised you to make arrangements with the Department of Emergency Communications (DEC) to be notified on any incidents in which you would be interested. I explained to you that DEC maintained call out lists for a variety of incidents.

The MNPB relies on the DEC for these notifications and regularly furnishes the DEC with a listing of MNPB call out personnel. The MNPB relies on the DEC for this service.

I further explained that by setting up a notification procedure with the DEC, your office would receive the same notifications as the MNPB.

[Note: Sometime, mid-summer, I became aware that you were starting the process of establishing an MOU with the DEC to receive pertinent notifications. I was puzzled as to why you were pursuing an MOU when a simple written request or a phone call would establish the procedure. I assumed that you would follow through with this, so I did not intervene in the process.]

(2) Our Tuesday, August 13, 2019, Meeting:

Among the procedural issues discussed during that meeting was the subject of call outs.

The discussion of call outs was more detailed in this meeting. Again, you were advised to make arrangements with the DEC to receive notification on any type of incident in which you would be interested.

[I must say that I was puzzled as to why, at this late date, you had not made the necessary arrangements to receive the notifications of your choosing. I did not question you as to why the procedure was not in place in that I felt it best to let you manage your own affairs without my interference. Again, a written request or a phone call to DEC management could have accomplished this in short order.]

(3.) Our Tuesday, August 27, 2019 Meeting:

During this meeting we discussed several procedural issues. I do not recall the subject of call outs being raised.

However, if you were having any difficulty establishing these procedures, this would have been an opportune time for discussion. Had I known that the procedures were not in place, I would have urged you to take the necessary steps to complete the process.

If you were having any difficulty establishing the process, I would have taken any necessary steps to facilitate the process.

(4) Saturday, September 7, 2019, email:

I received an email from you complaining about the lack of notification to your office concerning the police-involved shooting the night before.

I reiterated what I had said weeks and months earlier: that you should establish procedures with the DEC to receive notification on any matter in which you were interested. [Note: At this time, approximately 129 days had elapsed since our first discussion on this subject. Again, a simple written request or a phone call could have put these procedures in place.]

(5) Tuesday, September 10, 2019:

After seeing you make numerous television appearances complaining about the lack of notification to your office concerning the police-involved shooting, Deputy Chief Mike Hagar emailed DEC Interim Director Milliken to initiate, on your behalf, the notification process. You were copied on this email.

It was at this time that you followed up with the DEC and asked that your office be notified in the following circumstances:

1. All MNPB police personnel involved shootings;
2. All in-custody deaths; and
3. Any other incidents where an MNPB Commander is notified of an occurrence

[Note: Numbers one and two state an objective criteria and can be readily accomplished. Number three provides no guidance and would be impossible to implement.]

(6) Our Wednesday, September 11, 2019, Meeting:

This meeting was at your request to discuss procedural issues.

Again the issue of call outs was discussed. You acknowledged that if you had followed through and made proper arrangements with the Department of Emergency Communications you and/or your staff would have been notified.

Again, you were urged to make these arrangements so there would not be a similar situation in the future.

[Note: During this meeting you were asked to clarify one of the circumstances on which you were asking that your office be notified.

Specifically, request number 3: "Any other incidents where an MNPB Commander is notified of an occurrence."

I explained to you that DEC personnel would need a clear objective criteria to put in their procedures. This request, "Any other incidents where an MNPB Commander is notified of an occurrence" is unclear and without definition.

I asked you to explain the circumstances this would describe. You stated that you could not provide clear guidance at the time but that you would work on it.

[Note: In your September 10, 2019, email response to Chief Hagar and Director Milliken, you asked to be relieved from the MOU. I would call to your attention that it was you who was insisting on establishing an MOU. It is my understanding that it was the position of the DEC that no MOU would be required and that the procedure could be established by written request or, as was ultimately done, a phone call between you and DEC management.]

(7) Wednesday, September 11, 2019:

I watched you in yet another television appearance concerning this subject.

You stated, "It is very frustrating. We have made some progress, but not as much as we would like."

You failed to mention that the failure to establish call out procedures and notifications was due to inaction on your part.

(8.) Thursday, September 12, 2019:

I was made aware that you had communicated with Director Milliken by telephone and had initiated the call out procedures.

[Note: To be clear, this is a process that could have been established months ago and this controversy could have been avoided.]

To assist you in answering any inquiries on the issues of call outs and notifications, questions that may be presented to you include:

- (a.) When did you first initiate the process for receiving notifications from the DEC?
- (b.) When did you first personally make direct contact with the DEC to establish the notification procedures?
- (c.) Why did you not acknowledge to the COB that the failure to have established notification procedures was due to inaction on your part?
- (d.) On what date did you first supply the MNPDP with contact information for you and your staff?
- (e.) On what date did you first supply the DEC with contact information for you and your staff?
- (f.) If you had not established the notification criteria and supplied the DEC with contact information for you and your staff prior to Friday, September 6, 2019, what would be your expectation that you or your staff would have, or could have, been timely notified?

Your *Number 1*.

Review the status of records request from Metro Nashville Community Oversight ("MNCO") to the Metro Nashville Police Department ("MNPDP").

This has been discussed several times during our meetings and the procedures for obtaining records has been explained. The release of these records is controlled by Tennessee legislative acts (statutes/law), the Tennessee Rules of Criminal Procedure and by court decision.

Over the past few months, your office has made numerous requests for records and information. In those situations where the information and/or documents were readily available, could be released consistent with applicable law, and could be submitted electronically with only minimal research and review, that information has been forwarded to you in a timely manner.

Where the law permits, we have already provided numerous files to your staff, both as requested on the MNPDP Record Request Form and as your staff have presented themselves at the Records Counter; including incident reports, crash reports, archival traffic stop data, employee records, and internal crime analysis planning and mapping tools.

Our public record responses to you and your staff are themselves public record. Our legal inability to provide certain documents, our practical inability to review and provide millions of pages of documents, or, important for this discussion, the cooperation we have provided, is documented.

Other requests you have made cannot be readily retrieved and reviewed without the expenditure of a substantial amount of resources.

For example, on one request alone, we have estimated that this would require the retrieval and review of 1,900,000 (one million, nine hundred thousand) incident reports and 1,400,000 (one million, four hundred thousand) arrest reports for a total of 3,300,000 (three million, three hundred thousand) MNPDP documents

Fulfilling this request would require months of research, retrieval, review and reproduction. This would virtually cripple our Records Division and limit or curtail our daily service to the public.

I will leave it to you to explain to the COB as to why it would be important, and would serve any purpose, to receive these documents.

Most troubling is your Wednesday, August 28, 2019, conversation with the COB concerning the availability of records from the MNPDP.

You were asked how many investigations you were pursuing. You answered that there were 4 (four) active investigations. You were then asked for a status report on these

investigations. You replied that you did not have this information and that your assistant, who would have that information, was not present.

Discussion by Board members indicated some concern that with only four investigations ongoing that you would not have some information concerning the status.

You then replied that the investigations could not be completed because the MNPDP had denied requests to produce certain documents. This appeared to contradict your statement that you did not have information concerning the status of the cases.

Also, you did not indicate as to whether the failure to obtain the records related to all four cases or to one, two or three of the cases.

The troubling issue is that on the day before, Tuesday, August 27, 2019, in our meeting, the issue of obtaining records had been discussed. You did not make me aware of any specific request that had been denied.

Similarly, during our meeting on September 11, 2019, you did not mention any record issues and it was not until I brought the subject to the table that any discussion was had. Even then, neither you nor your staff provided any information on specific issues or examples that would allow me to research and respond.

Later research revealed that the request for records you referenced in the August 28, 2019, COB meeting was made in the ordinary course of business to the MNPDP Records Division. This request was for the case file of an ongoing criminal investigation. As is routinely done, the Records Division personnel denied this request pursuant to our procedures and consistent with Tennessee law.

Had you brought this to my attention I would have had the file reviewed with the objective of giving you, at least, the portion of the file(s) that MNPDP can release consistent with law. I would have then facilitated the procedures for you to make application to the Office of the District Attorney General for approval for the MNPDP to release the remainder of the information.

To assist you in the future, we have created a form to facilitate any request for information pertaining to ongoing criminal investigations. This completed form can be submitted to the Office of the District Attorney General seeking approval for the MNPDP to release the records. The form includes a line for the identification of the person who initiated the COB complaint in that the District Attorney might well need to discern whether the defendant and/or his associate(s) is attempting to bypass court rules and statutory confidentiality.

Your *Number 3*.

Discuss any other issues necessary to the successful operation of MNCO and how it might better establish a cooperative and collaborative relationship with MNPd and other civilian oversight stakeholders.

On any meeting I attend I attempt to gather as much subject matter information as possible prior to the meeting so that I am prepared to disseminate accurate, pertinent and correct information to the public. It does not appear that this agenda item is defined in a manner that would allow meaningful public discussion.

The preceding responses have provided significant information concerning the agenda items you have raised. Therefore, it is unnecessary for me to attend the recently scheduled meeting in order to restate the material in this message.

From: Weeden, William (Community Oversight Board)
Sent: Friday, September 13, 2019 2:54 PM
To: Anderson, Steve (MNPd)
Subject: Special Meeting Community Oversight Board - 9/18/19

The Community Oversight Board ("COB") will be conducting a Special Board Meeting on Wednesday, September 18, 2019, at 4:00 pm. The purpose of this special meeting is to:

1. Review the status of records request from Metro Nashville Community Oversight ("MNCO") to the Metro Nashville Police Department ("MNPd").
2. Determine the methods and status of MNPd critical event notifications from the Metro Department of Emergency Communications ("DEC") to MNCO, and
3. Discuss any other issues necessary to the successful operation of MNCO and how it might better establish a cooperative and collaborative relationship with MNPd and other civilian oversight stakeholders.

Toward that end, we would like to invite the you, as the Chief of the MNPd, to participate in the upcoming special board meeting. Your participation in the civilian oversight process is vital to the mission of MNCO and to the community that all we serve. The time and location for the meeting is provide below:

**Special Meeting, Community Oversight Board;
Wednesday, September 18, 2019, 4:00 pm – 6:00 pm
Metro Historic Courthouse Jury Assembly Room
1 Public Square Nashville, TN 37201**

Thank you for your consideration and we look forward to your participation at the special board meeting.

Best Regard,

William C. Weeden



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