

ALEXANDRIA HUMAN RIGHTS COMMISSION
MINUTES OF THE MEETING OF TUESDAY, MARCH 16, 2021
7:00 p.m.
VIRTUAL (Zoom)

Members Present

Danielle Beach
Lisl Brunner, Vice Chair
Michelle Cho
Kevin Edwards, Vice Chair
Lynette Foster
Chris Harris
Matt Harris, Chair
Alex Howe
Susan Kellom
Elizabeth "PJ" Palmer Johnson
David Rigsby
Scott Schwartz

Staff Present

Jean Kelleher, Director
Miladis Martinez Gutierrez

Members Excused

Katherine Lloyd

Members Not Excused

Janeka Cogdell

Guest

Bryan Porter, Commonwealth's Attorney

1. Call to Order/Introductions by Chair, Matt Harris

Chair Harris called the meeting to order at 7:01 p.m. Introductions were made. Chair Harris welcomed special guest Bryan Porter, Commonwealth's Attorney, and Lynette Foster the new representative from the Commission on Aging. Commissioner Foster stated that she also served on the Historic Preservation Commission and left the country for a while and now she is back and ready to serve again.

2. Approval of February Minutes

Upon a motion by Commissioner Schwartz, seconded by Commissioner Palmer Johnson, the Commission approved the minutes of the February meeting. All Commissioners present voted aye.

3. Commonwealth's Attorney Bryan Porter

Chair Harris stated that Bryan Porter is attending the meeting to talk about police privacy issues in general, and his opinion on a Civilian Policing Review Board. Chair Harris stated that the Commonwealth's Attorney's Office is not under the Human Rights Commission's jurisdiction, because it is not a City agency. Chair Harris stated that he appreciates Mr. Porter coming before the Commission.

Bryan Porter gave an introduction about himself and stated that he is the Commonwealth's Attorney for the City of Alexandria and said that Virginia is a little unusual, because the cities are independent political entities, which means that we have no affiliation with any county. He stated that his office is responsible for all criminal violations that occur within the city limits, so they do everything that is jailable offense, from homicide down to drunk driving and other minor offenses.

Mr. Porter stated that most of his employees probably would consider themselves City employees, because the City supplements their salaries. They are on the City's payroll; their checks and benefits come from the City, but the state reimburses the City for approximately 50% of his budget yearly. Also, he added that he is an elected official, so he does not work for the City Manager.

Mr. Porter stated that the City gets a full-time prosecutor's office, but only really has to pay about half of the budget, and in exchange, the prosecutor's office spends all of its time providing services to the City and they are actually involved in more cases than the state code would require of them. He added that he has worked for the City for a long time now, this is his 19th year in the office. He started off as an Assistant Commonwealth's Attorney, and worked his way up the chain, and he is finishing up his second term as the elected Commonwealth's Attorney. Mr. Porter commented that his office has a really good reputation with the private Bar and with the bench. He stated that he has been very vocal on the need for criminal justice reform. He stated that he has been active at the state level and even at the national level with lobbying for needed changes to the Code and to discovery rules.

Mr. Porter explained that he did not have a lot to report on facial recognition and artificial intelligence, because, to his knowledge, they have never used that technology in any case, and he does not think the police department does either. He added that the police department investigates the criminal offenses. He stated that he does not have any supervisory role over the police department, but he gets the final say in criminal investigations. He said that he has had conversations with the Police Chief in the past about this, and he can concur that he does not believe that the Alexandria Police Department is using any facial recognition or any artificial intelligence in investigations, and he can definitely state that his office has never presented that evidence in any case in a court room. Mr. Porter said that does not mean that it could not happen in the future, but that he would have to be convinced of its efficacy. He would have to be convinced that it did not disproportionately affect communities of color or people from lower socio-economic status. He also stated that he thinks there has to be significant limits on what facial recognition is used for and re-stated that they are not using the facial recognition.

Mr. Porter addressed questions by Commissioners and explained the process of the pretrial risk assessment instrument. Mr. Porter also address the questions about if there is a standard intake question by the commonwealth prosecutors, as to whether the police actually used any method of facial recognition in their identification of a potential defendant. Mr. Porter stated that they do not ask that question. Mr. Porter explained the process of composing the Community Advisory Board and said that he made the selections; the board is composed of 20 members. Mr. Porter explained the police investigation process and said that whenever there is the use of deadly force by the police there are two concurrent investigations that occur, there is the criminal investigation and then there is the internal administrative investigation. He said that when Chief Brown took over the Police Department, they met and decided that it was a good idea to outsource the criminal part of investigation to the Virginia State Police. Since that time, the criminal investigation is conducted by the Virginia State Police and then they hand the case to

him for a review and a determination as to whether criminal charges should be brought, but when that is over with, the Alexandria Police Department's internal affairs division will do the administrative investigation.

Mr. Porter explained what will happen if there is a situation of questioning jurisdiction. The Feds cannot force him to give them a case, so instead, what happens, generally, if there is a case that really would require them to make a decision, they are going to have a conversation with the US Attorney's Office about which jurisdiction is the right place to prosecute. Mr. Porter stated that they have a written statement on racial disparities that he personally created, and he has submitted it to the prosecutors in his office. Mr. Porter stated that he is very much an advocate for diversion wherever possible. He said that about four or five years ago they instituted something called a mental health initiative in his office.

Mr. Porter talked about eyewitnesses and said that he would put an eyewitness on the stand if he had to do it. He added that the rule in his office is that they would never indict a case and take it to trial based on one eyewitness identification and nothing else. Mr. Porter also talked about a public integrity unit, and said that his office is relatively small, and basically for all intents and purposes, he is the public integrity unit. He added there has to be both components; there has to be a healthy, robust independent criminal investigation by a person or a unit that is capable of doing that, and then there needs to be a separate robust administrative inquiry and this is for the City to figure out who does that -- is it going to be the Police Department, is it going to be the Human Rights Commission or an independent Civilian Policing Review Board -- they are both necessary parts of police accountability.

Chair Harris thanked Commonwealth's Attorney Bryan Porter for coming before the Commission.

4. Executive Committee / Upcoming Meetings

Chair Harris stated that the Executive Committee met last Monday and said that Dr. Goodman Okpara came to discuss results of the recent Fair Housing testing.

Chair Harris proposed an ice breaker exercise for Commissioners, and it was divided into two groups for Commissioners. One group did it tonight and the other group will do it next month. The ice breaker was for Commissioners to describe a new activity that they engaged in since COVID-19 or describe an experience that led them to be an advocate for human rights and take an interest in this Commission. The following Commissioners participated at this meeting: Commissioner Beach, Vice Chair Edwards, Commissioner Schwartz, Commissioner Cho, Commissioner Chris Harris and Vice Chair Brunner.

5. Old and New Business

Rainbow Crosswalk letter

Chair Harris stated that the Rainbow Crosswalk letter was sent out to City Council, and thanked Director Kelleher and Commissioner Schwartz for a wonderful job on drafting the letter.

CPRB Public Engagement

Chair Harris stated that City Council had a meeting on the Civilian Policing Review Board and said that he thinks that they are getting public input at the end of this month. Director Kelleher stated that there were two public meetings and said that Commissioners can continue to provide input if they have personal views. She said that the Commission is not taking a formal position, because the City Council is out in front on this issue.

Alexandria Community Remembrance Project

Director Kelleher informed the Commission that the steering committee meeting is tomorrow, and they will meet at 5:00 p.m., and added that they are meeting monthly. She stated that all committees are resuming meetings and they are meeting virtually still, but there was lots of programming underway commemorating the two men who were lynched in Alexandria. For Joseph McCoy the anniversary is in April and for Benjamin Thomas the anniversary is in August, so the planning is already taking place. There are lectures and all kinds of special events already planned.

6. Liaison Reports

Commissioner Palmer Johnson stated that the Commission for Women has two subcommittees: Housing and Transportation, and Domestic Abuse. She said that she is going to be serving on the Housing and Transportation Committee. She added that they are planning to have a series of guest speakers and that the first speakers that they will have in June are Sarah Taylor and Jaqueline Tucker. She added that they had a presentation by Diana Karczmarczyk on Robert's Rules of Order.

7. Announcements /Adjournment

Chair Harris announced that the Governor restored ex-felons' voting rights, and that was a big win and the Commission had been pushing for that for years. Director Kelleher stated that the City will be getting 56 plus million dollars from the federal government. It will be provided over about a four-year period, the City will get the first half soon, and the second half will be in a year, so and it will be for FY2023 budgeting. There are some constraints, most the money is supposed to be used for COVID-19 related economic development issues.

Director Kelleher informed the Commission that she presented on the Universal Representation Pilot Program, which began a year ago and the City contracted with the Legal Aid Justice Center to provide representation of undocumented persons who were at risk of deportation. It was basically a due process model that is evolving, and the City Manager has moved that funding into the Human Rights budget, and, going forward, the Office of Human Rights will be the liaison between the City Council and the LAJC. She added that the Legal Aid Justice Center was responsible for closing the Farmville Detention Center and also has their first case that has been argued before the U.S. Supreme Court, which has to do with whether a person who has been deported and comes back to the U.S. seeking asylum can be detained without bail. The LAJC was successful in Virginia, and the question is now before the Supreme Court. She said that because the Farmville Detention Center is closed, arguably ICE (Immigration and Customs Enforcement) will not be able to detain Alexandrians and others in Virginia.

MOTION: adjourn the meeting.

Palmer Johnson /Rigsby **PASSED** unanimously
The meeting adjourned at 8:43p.m.