

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

Members Present

Danielle Beach  
Lisl Brunner, Vice Chair  
Michelle Cho  
Janeka Cogdell  
Kevin Edwards, Vice Chair  
Matt Harris, Chair  
Alex Howe  
Susan Kellom  
Katherine Lloyd  
Elizabeth "PJ" Palmer Johnson  
David Rigsby  
Scott Schwartz

Staff Present

Jean Kelleher, Director  
Miladis Martinez Gutierrez

Members Excused

Chris Harris

Guest

Chief Michael L. Brown  
Alexandria Police Department

**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 welcome special guest Chief Michael L. Brown from the Alexandria Police Department.

**2. Approval of January Minutes**

Upon a motion by Commissioner Schwartz, seconded Commissioner Kellom, the Commission approved the minutes of the January meeting reflecting that Commissioner Cogdell was present rather than unexcused. All Commissioners present voted aye.

**3. Chief Michael L. Brown,**

Chair Harris stated that at last month's meeting Commissioner Brunner had invited Clare Garvie from Georgetown University whose expertise was on police privacy. Chair Harris asked Chief Brown to give a brief summary on privacy issues and how they are implemented or overseen in the police department.

Chief Brown thanked the Commission for the invitation and started the presentation by saying that, at the Executive Committee meeting he got heads up that there was some interest in the issue of privacy and as it applies to things like predictive policing and technology. Chief Brown stated that this has been a big discussion in the law enforcement profession for years, but it was accentuated following the killing of George Floyd, and there has been a lot of circumspection on the part of law enforcement to make sure they are doing the right thing, and that the communities are accepting some of the things that police departments are doing.

He stated that he would like to cover some of the big items that were brought up at the Executive Committee meeting and some others that he thought of since that time. The first issue is body

worn cameras, which is part of the budget discussion this year. Chief Brown stated that body worn cameras has been a recommendation from the 21<sup>st</sup> Century policing project, which they adopted four years ago and the only thing that has held them back is the fiscal piece of it. Currently, there is a discussion before the Council about whether or not to fund a multi-year implementation for body worn cameras. Chief Brown stated that the Police Department has been supportive of body worn cameras.

Chief Brown stated that there are some folks that are concerned about body worn cameras, because they are in essence evidence, and the footage that is captured become part of a file or part of an incident report. There is some concern that body worn cameras are being used and abused, but if they are put on the correct way and administered the right way, they give a factual representation of actually what takes place between the community and the officer. He added that, it also gives them an opportunity to identify potential problems with way the officers interacted with the public and deal with those accordingly.

Chief Brown spoke about the Co-Responder Program, where a clinical psychologist pairs with an officer responding to mental health call. The purpose of that is to get the treatment in the mental health community to the person in their own home if possible, so they can avoid transporting people to facilities and get them treatment, rather than place them into custody, or charge them with a crime. Chief Brown stated that he supports this, because a good number of their calls for service were related to substance abuse, mental health, and those kinds of issues. People are not going to get proper treatment or help if they are going to go to jail. Chief Brown stated that he is really excited about this program. He said that there was some discussion at the last Council meeting about maybe adding an additional mental health professional.

He said that the reasons he brings this up is because they are there to make sure that the situation is stable and safe; the privacy issue comes into play when the treatments provided by the mental health professional, and that is going to be provided under HIPAA with those HIPAA protections so in those kinds of cases there will be additional privacy for the treatment of individuals, as opposed to when they talk to a police a officer there is no HIPAA provisions and so that is one of the advantages of that particular Program.

Chief Brown mentioned that another issue is predictive policing. Predictive policing is using data and different algorithms to try to identify and anticipate locations in time and space where a crime or a series of crimes are going to occur. He stated that probably the Vanguard group was doing that, it was out in Los Angeles with LAPD (Los Angeles Police Department), and they have been doing that for about five or six years. The model was developed by Craig Uchida, Professor at UCLA. He said that while mathematically sound looking at the data and everything else, the response from the Community over the last six months was for LAPD to abandon it and largely because of the way they were trying to target the interaction or the intervention. He said that in many cases they would go out and do what frankly all law enforcement, including our department did is as late as 15-20 years ago when they had the street crimes detail; and they

would go out and flooded area with officers easily and playing cars, mostly dressing uniform and they would form and try to make an arrest and things of that nature.

He stated that APD is not doing any predictive policing and they are also not doing any of the street crime response. He said that they do respond to individual cases and look for suspects, like in the old, traditional manner, they rely on input from the public. In addition, as far as the crime data, they do use crime data so that they can get an idea of patterns and things of that nature, but they do not necessarily do it in the same manner that is done with the modeling and the prediction, and that is typical law enforcement.

He stated that the other thing that he wanted to talk a little bit about is technology. There has been an awful lot of advanced technology, and a lot of it has been tech transfer from the Defense industry. For example, drones, who would have thought that law enforcement would even be considering the use of drones. Drone technology came out of the Defense department and then of course it went into the private sector and started looking at commercial use and private use. He said that one of the problems that they have with using drones is, they have to be in a certified aerospace that allows for no drone usage. APD is not in the process of using drones and have no plans to use them in that capacity.

Chief Brown stated that they have explored the possibility of using many drones for special operations SWAT operations, but they have no drones, and they are not trying to purchase any. He stated that they understand the privacy issues there, especially with the ability of the drones to get fly in low altitudes; those cameras on them are just phenomenal. He said that they have actually seen demonstrations of it, but they do not plan to use drones and frankly, it is not a good investment for them because, the airspace is all regulated, because we are in the National Capital Region.

Chief Brown stated that another thing that have some concern is the issue of facial recognition. House bill 2031 is being heard by the General Assembly, and that bill basically prohibit the use of facial recognition technology without an ordinance being passed by the local government. Chief Brown stated that they are not opposed to that kind of adoption of some kind of an ordinance, primarily because you want to make sure that the public is comfortable with this kind of technology. Chief Brown talked about what facial recognition is and what it is not. He said that a lot of people think of it like a TSA where they do facial recognition looking for people and they just make an identification; that is not how law enforcement general uses the technology. He said facial technology is no different than a license plate reader and if you get a license plate reader you cannot guarantee you are going to be driving the car, because it could be somebody else involved and everything else, but it does give you a chance to look at lead. Chief Brown stated that they do not use facial recognition in their department, he said that they do not have the technology, and they have no plans to use it. He said that they have had one case, which was a cold case that they referred to one of their federal task forces; they run it through the technology and ended up finding a suspect that the Alexandria Police Department went ahead and had to do the old fashioned way of trying to establish if in fact, he was a legitimate suspect

and instance of a crime, but that is the only time they have ever used facial recognition of the department. He stated that in most cases, these are just tools that they certainly are very sensitive to the perception that they have with regards to the Community and what they can and cannot do and what they are what they are not. He said that those kinds of technology in and of itself does not necessarily need to convict to an arrest, you have to do a lot of legwork, a lot of regular traditional Cop work to do that stuff. Chief Brown concluded his presentation and opened it up for questions.

Chair Harris asked about the ring agreement with between either with the Alexandria Police department, Amazon and the residents who may be the ones who have it; is there a *quid pro quo*, what do they get out of it, what are the privacy concerns there. Chief Brown stated that ring actually has an opt in for residence that want to share their ring video with law enforcement. He added that they do just derive out there perusing; they will approach ring when they are looking for specific video of usually at a crime scene, and if it is available, then they will make it available to them, but they have to opt in to get that. He stated that most people are very cooperative with their video and they provided it to them on a regular basis.

Commissioner Beach wanted to find out more about the crisis intervention program that Chief Brown mentioned that is being conducted through the resident's home, and asked how he determines which mental health persons are eligible for that, how many officers or how many psychologists, or who does he use. Chief Brown stated that it is called the ACOR program, which, basically an acronym developed for the most part by the Department of Community Human Services, and they have a variety of assets and vehicles by which they can serve the community that is going through a behavioral crisis. He stated that they are going to do a pilot project to start with at least one and maybe two psychologists, they will be paired with individual officers and they will respond to those calls. That team, will take the lead, once the place is stabilized and safe then they will start the treatment protocols and they can do that in their home, rather than putting them in a car and taking them to a hospital or someplace like that. They will also have 24/7 access, to DCHS, which is one thing that the Police Department does not have. He thinks that they are going to have an opportunity to get treatment much quicker, as opposed to having to go into the criminal justice system. He added that this is actually modeled after a number of co-responder programs that are happening throughout the country.

Commissioner Brunner asked the following question: "If and when the Police Department will use facial recognition technology; are there guidelines in place, do any of the department's policy currently covers this; what would the department uses as guideline; would the Police Chief notify; City Council; would anyone have oversight over this, to make sure that those pitfalls have been mitigated in some way. The same question goes for predictive policing technology if this were to be used are their guidelines are there ways that we can make sure that they are being used in ways that do not have a discriminatory impact."

Chief Brown stated that one of the key issues with the use of technology is not necessarily the technology itself; it is the implementation of analysis developed, in the case of the face

recognition what data says do you bounce it against, there is not a picture in every data or an image and every kind of data set that they have, for example; the national Center for information systems, which is basically what they do when they run warrants and warrants on an individual, they have photo files, but they are not searchable and they are not searchable for those kinds of things as far as facial features. It has been embedded in the file so if you go in and you look Mike Brown up and you look for his criminal history which we use a lot. It is based upon an arrest and conviction and you look at the history and you see what is there usually the embedded in there is my picture, but it is not set up for a facial recognition search.

He stated that they started looking at automated enforcement for speed, they did a test on that and they had to get a concurrence from the City Council to even do the test, because they did not want people to think they were going to go out and just start issuing tickets right away, in conjunction with the new law that was passed. He said that the purpose for them to do that, was to see whether or not the technology worked, how accurate it was, and then see whether it could be an effective and an unbiased tool for them in terms of enforcement. He added that law enforcement run into trouble when they rush into technology without thinking of the various things that they are bringing up, and how it is that going to be perceived and more importantly, if they are going to get support for it. He said that there are some technologies, if implemented properly, might be actually useful in protecting people, and so there is a fine balance in there, and the only way you get that balance to a point where it is legitimate, is to explain and put the regulation on it and that usually is a departmental policy. In some cases and in some communities they have done it by way of ordinance, but it has to be something that makes the technology trustworthy in the eyes of the public and so those are the kinds of things that is going to be a long ongoing debate because there is technology and others are coming, and we are going to have to have that conversation over and over again, and it is fair to asked law enforcement about the technology, and how they plan to use it.

Commissioner Brunner wanted to clarify if there were no current policy that would govern or set guidelines for the use of that technology that would have to be created. Chief Brown stated that at this point, they do not use the technology, so it is not an issue.

Commissioner Cogdell stated that she was concerned with there not being any protocols set in place with the technology usage. For example, if it is already a factor of body worn cameras and it the future more than less, she thinks we are gearing towards that direction, and since it is already a high-risk and the default technology. She said that she thinks it would be a better protocol to have those govern solutions in place for the officers. Is there any protocols, consequences and or policies put in place for offices that are not actively following the body camera protocol regarding filming?

Chief Brown stated that in the body worn cameras policy they have already a draft written and in the event that they go to body worn cameras that will be propagated to their office as to when it requires them to turn it on when they are engaged, there are certain times when they have to keep it on. It is pretty much the standard policy that most law enforcement use. He said that the

Commonwealth's Attorney looked at it, the City Attorney look at it, it provides for retention of the records, and it provides for release of the records. He stated that they started doing that in anticipation of getting funding to do this, and even if they were going to get them today, it is going to take a while before this program gets off.

Commissioner Schwartz asked Chief Brown, if he is aware of any current discussions within Alexandria to use any type of facial recognition technology. Chief Brown answer was no. Commissioner Schwartz suggested that if there is any intention or discussion along those lines can we ask for commitment that there will be citizen involvement in developing those policies. Chief Brown stated that he is pretty sure that in this city they are going to require that. He stated that it might be before the new Community Policing Review Board that is being considered, for example, the Community Policing Review Board, under the ordinance, provision will have the ability to look at all of Police Department policies, critique them, investigate them, and review them.

Commissioner Schwartz asked what the status of the development of that Community Policing Review Board is right now. Chief Brown stated that the City attorney as directed by the City Council is developing an ordinance for the implementation of one of four models that were presented to the City Council at its meeting in January and all four of those are going to go out for public review. Chief Brown explained the differences between all four models and stated that all four of them are going to go to the community for input.

Chair Harris asked if all of those four options include taking away the Human Rights Commission's jurisdiction of cases of bias policing and excessive use of force. Chief Brown stated that all four options are basically going to be specifically enumerated in the ordinance; they were specifically enumerated in the policy now the proposal the concepts that were presented to City Council in January and that was at Council's direction.

Commissioner Edwards mentioned that the Commission had school board members come in at the beginning of this year, talk about the MOU between APD and Alexandria schools system and asked if Chief Brown could give the Commission a little insight on the selection process for his school resource officers. Chief Brown stated that he is a supporter of the school resource officer program, but that he understand it is under some content and he has got several Council members that are expressed a concern about funding at the school board voted last fall to do it. He stated that they signed an MOU, but that there is an opt out clauses if there is a decision not to go there, the officers that go there are not just an average officers, these are officers to go through a process involving ACPS to make sure that they are the right person to work with kids. He added that they are looking for mentors, they are looking for people who care, many of our officers devote extra time they, and they do not get compensated for to work with these young people, and that is principally what we have in the middle schools and TC Williams. He stated that the part of it is the they have to be able to be able to stand up to sometimes the educational institution and say that is not our job, in other words we do not do administrative work that is for the schools to do in terms of the administrative discipline and problems with the kids. The

selection process involves a testing using cases of scenarios, as well as the interviews and the Police Department does not do it just by themselves, they do it with ACPS staff so that they make sure they feel comfortable with the people that they are going to be recommending to them, then there is usually an interview with the principal of the school where the vacancies taken place to make sure that that is going to be the right fit for them.

Chair Harris asked what the policy on social media is and said that it was briefly discussed at the Executive Committee meeting. He stated that in the news there was that officer who posted something up, which he considered inappropriate on his own social media page, and it was quickly taken down. What was the position of the police department. Chief Brown stated that they have a policy, it is on their web page, it was originally developed about 2013, and they updated it surely after he got here, largely because of an issue involving an employee. The City policy has not been changed since 2011, and because of that particular case that Chair Harris was referencing plus some others that have occurred in other departments, there is a charge to have the departments and have the city come up with a more detailed policy. He said that when you have postings on social media, he is not a first amendment right expert, but said that they reach out in the individual cases to make sure if there is not a clear and present threat or a certain thing that show that there is a crime to be committed it is outside of their purview, but the real question is from an administrative standpoint. Did that person violate or act outside of their first amendment protections? In this particular case there were two opinions by legal counsel that said, he was within his first amendment rights. That did not mean he got a walk as they gave him a letter of findings, and they have talked about the ramifications of his comment, and the fact that there should be done in a full investigation that they conducted on that case and will continue to do that. He added that there is some significant case law that that provides protections and said that that the officers do not lose their first amendment rights just because they are officers.

Commissioner Palmer Johnson stated that there is some thought at the present time that our police should not be involved in traffic stops and that perhaps there should be another type of a person to monitor traffic stops, she asked Chief Brown to comment on that. Chief Brown stated one of the things that they were exploring and that was the reason they were doing the test for the automated speed enforcement to see if they can do that, because that eliminates some of the concern of as to whether or not they are stopping people, because of the way they look or things of that nature. He stated that he would not want to do traffic stops without protection because the public does not necessarily recognize that in one city they are having a civilian do it, and another city they are having a police officer do it, and if you have a bad actor out there, someone can get hurt but, Chief Brown added that it is difficult to show bias in traffic because you are dealing with a mobile population.

Chair Harris thanked Police Chief Michael Brown for coming before the Commission.

#### **4. Executive Committee / Upcoming Meetings**

Chair Harris stated that the Executive Committee met with the Police Chief and his officers last week. He stated they went over their quarterly reviews, which actually was the first one, since

last year, so they were dealing with a large volume of cases dating back to September 2020. He stated that this information is confidential and cannot go into too much detail, but a lot of cases had to deal with use of tasers; their policies and what was within and beyond the limits of their policies.

Chair Harris stated that the Commonwealth's Attorney Bryan Porter has been invited to the March Commission meeting. He said that he would like to keep the theme of privacy, but maybe also expanded to some of the other topics that Brian Porter will be more familiar with, like the social media aspect that he is advising the Police Department on. Chair Harris suggested that Commissioners have their questions prepared in advanced for Commonwealth Attorney Brian Porter.

Chair Harris also asked the Commission's input about bringing on board a student from T.C. Williams High School, and not necessarily in a voting capacity, but have them come and ask the questions about what is going on in the schools. Commissioner Schwartz stated that the problem with the student has always been consistency of appearance but may through Zoom there will be a better attendance. He added that he will be in favor of having a student. Commissioner Beach stated that consistency is one of the key points, but she thinks that if the Commission were going to have the school or the counseling department pick that student that they feel is the most involved in energetic, the key is getting the right student.

Commissioner Palmer stated that prior to Covid-19 the Commission for women had a student come to their meetings, she was outstanding and very faithfully but since Covid-19, she has not joined them at all with the zoom meetings, and she is thinking that maybe if she is on her computer all day studying; she just might be computer overload and maybe that is why she is not joining them on their zoom meetings. Director Kelleher stated that the Commission for women did have to go and change the ordinance to provide for their participation. Chair Harris asked if there is anybody who is opposed to pursuing a student somehow or another. Charis Harris suggested discussing this at the next Executive Committee meeting.

## **5. Old and New Business**

### Vaccine Town Hall Co-Sponsored w/ AHD, NAACP, TWU

Chair Harris stated that Chris Harris, Director Kelleher, Evelyn Urrutia, he and two other member of the City's health department doctors had a nice town hall meeting last month basically educating people on the need that safety of getting vaccinate with a focus on going to different underserved communities.

### Rainbow Crosswalk Idea for Intersection at King & Washington St.

Chair Harris stated that Commissioner Schwartz had draft a letter on the Rainbow crosswalk and he open it up for discussions and asked if there are any comments on submitting it as its drafted or any suggestions, changes before it goes to City Council.

Commissioner Edwards stated that he did not have any opposition to send the letter to Council, he suggested thinking of the optics of it as well during this time. He stated that considering the climate that we have in the country; he thinks that the Commission should also maybe put



something now for Black Lives Matters. Chair Harris stated that the Commission will certainly pursue the Black Live Matter as well with equal vigor and any other group that wants to be represented.

Commissioner Rigsby suggested including a sentence or a statement that the Human Rights Commission supports public displays that honor and celebrate all types of diversity. He also suggested adding a paragraph about why it might be important now to do the crosswalk. Upon a motion by Commissioner Kellom, seconded by Commissioner Rigsby; Commissioner Schwartz will incorporate the suggested revisions to the letter and then it will be sent to City Council.

## **6. Liaison Reports**

Commissioner Cogdell stated that their meeting is tomorrow, and she will provide an update at the next meeting. She stated they are drafting a letter dealing with affordable housing in the City and she will forward it to the Human Rights Commission.

Commissioner Howe stated that the Landlord and Tenant Board met and that they reviewed two different relocation plans for two different projects coming up in the City. He said that the big one to point out is the Heritage in Old Town and said that this is going to City Council soon. He stated that they looked at a different project, but it is kind of a unique situation on seminary Road. He stated that they a big discussion about this company bought up a tract of land with a bunch of single family homes and going to build an apartment building on there and kind of matches in with a lot of the development that is been there for a long time. He added that they elected a new chair, since he is leaving so Reverend Elliot Waters is going to be the new Chair of the Landlord and Tenant Relations Board. Director Kelleher thanked Commissioner Howe for his contribution to the Human Rights Commission.

Commissioner Palmer Johnson stated that the Commission for women had a retreat, and they have decided to focus on two areas: Housing and Transportation and Domestic abuse and Sexual Assault. She said that she has been assigned to work with housing and transportation; she has been asked to find guests speakers.

Commissioner Lloyd stated that the ACPD ha a representative from Endependence Center of Northern Virginia speak at their meeting. She said stated that this organization works with empower people with disabilities. They spoke to them about their efforts on house bill 1848 which adds discrimination on the basis of disability as an unlawful discriminatory practice under the Virginia Human Rights Act. She added that as a Commission they have also as a committee decided to form a subcommittee that legislative in nature to address legislative issues for people with disabilities.

## **7. Announcements /Adjournment**

There were no announcements.

**MOTION:** adjourn the meeting.

Schwartz /Palmer Johnson **PASSED** unanimously

The meeting adjourned at 8:42p.m.