



Metropolitan Government of Nashville & Davidson County
COMMUNITY OVERSIGHT BOARD
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July 12, 2021

Chief John Drake
Metro Nashville Police Department
600 Murfreesboro Pike
Nashville, TN 37210

Dear Chief Drake,

I write on behalf of the Community Oversight Board in response to MNPDP's Proposed Resolution Report Review and Response. The Board tasked me with conveying several issues the Response surfaced, as well as issues the Response leaves open.

The Board is committed to ensuring Nashvillians' voices are heard during the complaint process. Behind each complaint and subsequent proposed resolution report is a concerned Nashvillian who felt strongly enough to report a possible policy violation by an MNPDP officer in hopes that it does not continue to happen in our community.

The Board found several issues with the Response's findings and remains unclear about steps going forward.

Allegation 1

The Response finds the allegations unfounded, yet indicates further investigation is required to determine the appropriate finding. Is MNPDP directing the Board to continue this investigation, or is MNPDP conducting further investigations?

Executive Director Recommendations

Recommendation 1:

In response to the recommendation that MNPDP implement a policy requiring officers to acquire written consent to search a home, the Response states that Body Worn Cameras will largely eliminate the need for written consent since the cameras will capture verbal consent. This response neglects to consider non-verbal cues not captured by the camera that may influence a citizen's verbal consent. For example, the mere presence of officers could intimidate a citizen, making them feel obligated to verbally consent. Moreover, the fact that state and federal law do not require written consent for searches does not preclude MNPDP from implementing the policy itself. The Milwaukee Police Department, for example, defines consent as:

A clear and voluntary expression by an individual, in writing, to allow a law enforcement officer to search the person or property of the consenting party or property over which the consenting party has apparent control.¹

Similarly, the Asheville Police Department implemented a written consent to search policy in 2019.²

Recommendation 2:

In response to the fact that MNPB could not produce the Daily Activity Sheets of the two officers, you indicate that the absence of the Daily Activity Sheets is not totally conclusive because the sheet or group of sheets could be lost. Will MNPB reach a final determination on whether the officers failed to complete their Daily Activity Sheets or whether they were lost? How often are Daily Activity Sheets lost or misplaced?

The Response further states future technology will perhaps render the need to complete Daily Activity Sheets useless. Possible future events do not absolve officers of current policy violations. If Daily Activity Sheets are being phased out, why is the policy still in place? If, in fact, officers did not fill out the Daily Activity Sheets, how will MNPB address the policy violation? Will MNPB suspend the officers for one day, as indicated in the Response?

It is my hope that answers to the questions in this letter will guide the Proposed Resolution process forward. We value your assistance and input with this process, and know it will help the Board and MNCO have clarity on how we can resolve these complaints in an amicable and satisfactory way.

We look forward to your response and thank you for your consideration.

Sincerely,



Andres Martinez
Chair
Community Oversight Board

¹ <https://city.milwaukee.gov/ImageLibrary/Groups/mpdAuthors/SOP/085-CITIZENCONTACTSFIELDINTERVIEWSSEARCHANDSEIZURE.pdf>

² <https://www.ashevillenc.gov/news/asheville-police-implements-written-consent-to-search/>