

## Report from NACOLE Conference

Three ICPOC Commissioners attended the annual conference of the National Association for Civilian Oversight of Law Enforcement in Minneapolis, Minnesota. At the Opening session we were addressed by the Mayor of Minneapolis. Over the four days of the Conference, we attended sessions such as “The Work of Police Reform and Accountability and The Evolution of Policing and Civilian Oversight in Minneapolis. Minneapolis is the location where George Floyd was murdered and there was an awareness of that event throughout the conference. One Conference speaker reported that Minneapolis has a long history of police misconduct as well as a long history of a strong police union. Commissioners Haynes and Green had the opportunity to visit the site of the George Floyd Memorial. They were overwhelmed seeing the actual place where the killing took place, with the numerous expressions from the Community and a beautiful mural in Mr. Floyd’s memory.

One Speaker was the Mother of Philando Castile. Mr. Castile was shot and killed within seconds of being stopped by the police for a broken taillight. Mrs. Castile, in a heart wrenching statement, told us that Black people must be “extra” in order to be safe. We were also reminded of Amir Locke, who was shot and killed after being awakened from sleep on the couch when police entered the apartment with a no-knock warrant. It is alleged that Minneapolis had a history of a pattern of police misconduct and that these were not just isolated incidents.



Commissioner Haynes speaks with Mrs. Castile.

Another important session dealt with State Pre-emption of Local Oversight. Because municipalities are creations of the State, the State has the power to preempt local government ordinances, including those ordinances that created Oversight bodies. So far, the states of Florida, Arizona, Tennessee, Iowa and Utah have either passed or proposed statutes that pre-empt and prohibit local oversight. Pre-emption takes many forms. An example is Texas, where local officials who refuse to cooperate with the state regarding immigration are subject to removal from office or fines of up to \$25,000 per day. NACOLE has been encouraged to come up with a national strategy for dealing with the pre-emption issue.

A Policy Development session stressed the need for use of force policies. Questions suggested include: Is pointing a firearm considered use of force? Is it “use of force” when a firearm is unholstered, exhibited or pointed, or use of pain compliance techniques? Do such incidents require a use of force report? Is there a duty to intervene in the policies?

There was a Luncheon at which Minnesota Attorney General Keith Ellison spoke. Much of his presentation centered around his leadership in the prosecution of Derek Chauvin, who killed George Floyd. Chauvin had plenty of training. But Attorney Ellison believes that its not just training. Culture is what’s important. He spoke of an incident in Buffalo where an officer reported seeing an officer assault a citizen. As a result of his reporting, the officer was terminated and lost his pension. This demonstrates the importance of a policy of a duty to intervene We were advised that Society cannot arrest and incarcerate ourselves into safety.



Minnesota Attorney General Keith Ellison speaks at NACOLE Awards Luncheon

There was a session on ICE and how some localities are dealing with that agency. Illinois has an Accountability Commission which keeps a public record of abuses and encourages citizens to report. San Francisco has policies to prevent police officer cooperation with ICE agents. Part of the Immigration Act

establishes agreements for cooperation with ICE in warrant service and jail cooperation. It is unclear as to whether and to what extent more extensive cooperation agreements exist.

Another session was entitled “Officer Created Jeopardy”. This is a legal concept where an officer’s own unjustified actions or poor tactical decisions create or increase the risk of a deadly confrontation, potentially leading to liability when force is used. We saw video clips of incidents such as: when an officer opened the car door and put his foot into the car after a traffic stop on the freeway. The driver tried to speed off and the officer shot and killed the driver. The speaker suggested that Hypervigilance leads to Overreaction which then leads to Bad Decisions. We were again reminded that Culture will trump policy.

Several policies were suggested to help prevent Officer Created Jeopardy. One example of such policy takes into account the idea that shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of force. A model policy would state that: “Whenever feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert imminent threat from the vehicle, or if deadly force other than the vehicle is directed at the officer or others.”

One session dealt with the question of “what is the impact of police oversight on outcomes”. The Speaker had looked at 111 oversight agencies across the U.S. The study found that oversight decreases racial disparities in disorderly conduct arrests over time. Oversight also affected racial disparities, violent crime and line-of-duty police homicides.

There was a session on Artificial Intelligence. The presenters were employed by the AI companies and tried to demonstrate how AI can be used in police work. Personally, while some may see a place for AI in policing, I would not want to see AI used for report writing and such duties. We should employ officers who are literate enough to be able to write their own reports. Also, we had been shown earlier in the conference, an incident where AI had actually created an encounter with the Police. Scary!

One of our takeaways was the issue of subpoena power and its importance to oversight agencies. It should be noted that when ICPOC was first proposed by a citizen-led task force, subpoena power was included, but was later removed from the final authority given the Commission.

Finally, we were impressed by a discussion of how the culture of policing needs to change from “Reformative” to “Transformative”. Transformative addresses the root causes of harm by changing the systems that created it. Reformative focuses on repairing the harm of a specific incident and restoring relationships without necessarily changing the underlying systems. Transformative change dismantles oppressive structures while reformative change uses tools like mediation to address harm within the existing system.

On the whole, this was an very informative conference and well worth our continued participation with NACOLE.



Commissioner Green speaks with a presenter