

Mental Health Response Advisory Committee (MHRAC)
Meeting Minutes
Tuesday, January 21, 2020

In Attendance:

Co-Chair Danny Whatley, The Rock at Noon Day
Co-Chair Rick Miera, Executive Committee
George Mercer, Albuq. Health Care for the Homeless
Betty Whiton, NAMI
Gilbert Ramirez, CABQ-Dept. of Family & Comm. Services
Laura Nguyen, Albuquerque Ambulance
Maxwell Kauffman, Law Offices of the Public Defender
David Ley, New Mexico Solutions
Paula Burton, Peer Representative
Cassandra Bailey, Detective, CIU
Lieutenant Matt Dietzel, APD CIU
David Webster, Bernalillo County Behavioral Health
Rob Nelson, APD/C.O.A.S.T

Non-Voting attendees:

Deputy Chief E. Garcia
Sergeant D. Dosal
Scribe: Lori Cruz, APD

Absent:

James Burton, Peer Representative
Nils Rosenbaum, MD., M.P.H., APD Behavioral Health Division
Elizabeth Romero, M.D., UNM Department of Psychiatry
Lea Harrison, Haven Behavioral Hospital of Alb.
Robert Salazar, NAMI/Peer Representative

Meeting was called to order at 5:01 PM. A quorum was met at time of start.

Welcome first time guests:

Meeting began with a brief overview of the creation and purpose of MHRAC by Danny Whatley.

Brie Sillary, NM Coalition to End Homelessness
Debbie Schmidt, Board member – The Rock at Noon Day
Jim Vassar, Board member – The Rock at Noon Day
Gary Housepain, Disability Rights of New Mexico and member of APD Forward
Officer Benito Aragon, APD
Officer Kevin Hernandez, APD
Officer Gianfranco Di Paolo, APD
Detective Shannon, CIU, APD
Cecily Barker, Acting Commander, APD
Matthew Segura, Evidence Technician (OBRD), APD

Approval of meeting minutes

There was a motion made by Rick Miera to approve the November 2019 and December 2019 minutes as written. The motion was second by David Ley. The minutes were approved as written.

Public Comment (two minutes per person, 15 minutes total)

Danny Whatley recommended that Sarah Alires fill the vacant position on the MHRAC Board. He introduced Sarah Alires. Sarah Alires oversees the MCT, AOT and residential programs for HopeWorks.

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David Ley made a motion the motion. The motion was second by David Webster and approved by the Board.

New Shelter Update by Lisa Huval, Deputy Director, Family and Community Services:

Introductions were made. Lisa Huval provided a recap: voters approved the \$14 Million GO bond in November for the Gateway Center. The City is still in the process of getting community input. In December of 2019, the City held a community meeting. Five locations, for the Gateway Center, were presented, as a starting point. The five sites were: the current Westside Shelter; Montessa Park; 2nd and I-40; the UNM Health Sciences Center south of the State Laboratory; and the old Loveless Hospital on Gibson. The reports of the results from the community meeting have been posted on the City website. Four criteria were used: cost; impact on neighborhoods; access to transportation; and access to services in the community. The City also posted a survey online with similar questions. They received a little under 3,500 responses. Focus group meeting will also be conducted at some of the shelters. An architect has been selected to help design the Gateway Center.

(Q) Questions, (A) Answers, (C) Comments:

- C: Danny Whatley: There was an article in the journal about questions asked about the potential UNM location. They were talking about what people thought about the homeless being on UNM property.
- C: Lisa Huval: UNM will be sending out a survey to all their faculty and staff and will then decide if they want to offer that site for the Gateway Center.
- Q: Danny Whatley: In every discussion group everyone asked about smaller shelters. That was never addressed. Will it ever be addressed?
- A: Lisa Huval: I believe it was brought up in the meetings. That decision was not made and it still has not been made.
- Q: Rick Miera: My question would be, with five different sites, one or more of the sites could be selected?
- A: Lisa Huval: Those five sites do not mean that it has been narrowed down. It was just a starting point. We could come up with additional sites. The goal in February is to put out a report that those are the sites that were narrowed down. So yes, it could be one or multiple locations.
- C: Rick Miera: Funding was not specific could be multiple. One is not set in stone.
- C: Danny Whatley: One of the things brought up in December: what is the Gateway going to look like. MHRAC has to be involved in plans, procedures, for the Gateway because APD is involved. It was stated that it would be a drop-off location for APD. The first door to behavioral health issues and homelessness. He then asked if there were any additional questions for Lisa.

SOP 2-8: Use of On-Body Recording Devices Discussion Lead by Lieutenant Dietzel:

SOP 2-8 was submitted via email to MHRAC Board Members. Of concern are IPRA requests. Acting City Clerk Ethan Watson was present and discussed the following. There has been a lot of work done on IPRA on the state level. The receiver receives the request for public records. The City of Albuquerque receives more requests than any entity. Requests are received by lawyers, banks and 30% are requests from individuals. There is 11 full time staff handling requests. 60% of the requests are for APD, namely lapel camera requests. It is difficult to coordinate all the requests for multiple departments. Last year the Attorney General had a task force specifically for on-body recording. Medical emergencies are not

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only captured on On-body cameras. There are medical emergencies on city buses. The bus camera captures that interaction. You have records that are generated by multiple agencies. We do sometimes have grounds to redact medical. On a practical level not very many. APD receives 5,000 to 6,000 IPRA requests per year. Records do exist but requests are minor. Interactions at a hospital where the individual is in custody – on-body camera could potentially be an issue.

(Q) Questions, (A) Answers, (C) Comments:

- C: Danny Whatley: SOP 2-8 was one of the reasons by it was sent up to the committee. The policy mirrors the CASA. Texas is more stringent and protects the release of videos. The only group that the CASA identifies is the people experiencing mental health crises. It's one that has been discussed a bunch at MHRAC.
- Q: David Ley: What are the situations which you redact on-body footage?
- A: Ethan Watson: We redact personal identifiers; if an officer's notes are waved in front of the camera. It's fact specific. If part of pending litigation. If child abuse cases.
- C: David Ley: Assume all exceptions or laws established prior to the development of on-body cameras.
- A: Ethan Watson: Correct. The language of the law is very specific. We endeavor to comply with the intent of the law.
- Q: Rick Miera: So there are clear concise rules for third party redaction; someone who goes to a home or a family member: that's a third party? Is that taken out of the equation? Do you exempt interactions with third parties?
- A: Ethan Watson: If the interaction is part of an investigation it would not be redacted. If that person was not going to be arrested or charged. It doesn't really come up that much. A lot of the focus is threats for homicides and accidents. Can exempt the release of what would be confidential information that is part of the investigation. Mental health may not be part of any criminal or pending investigations. If someone is not going to even be charged it is going to be hard to justify redaction. We have 11 devoted to IPRA, 6 devoted to redaction.
- Q: Is the cost to the requestor covering the cost of the research.
- A: Ethan Watson: under the statute they have a right to inspect.
- C: Concerns around behavioral health does not come up a lot. Personal privacy does come up but behavioral health does not. Not that many requests that have involved MCT but the records are there, they exist. If a person is clear on the request that David Ley was under the influence of meth, how do you respond?
- A: Ethan Watson: If there are records, personal identifiers are redacted; if victim, victim covered under victim identifier act.
- C: Sergeant Dosal: After 120 day, obd is deleted unless there is an investigation. APD has specific retention of information guidelines.
- C: Lindsey Van Meter: more confined to cost and package of service provider.
- C: Paula Burton: One month last year, police were at my house. I, personally, have concerns with having to respond to questions of the officer. Although the policy is to delete this recording, they are being saved forever.
- C: Acting Commander Cecily Barker: We comply with the laws that exist. If you have concerns take that up with the legislature. Officers are good with correctly labeling their tapes. If it does not generate a case number, after 120 days it is deleted.
- C: Lieutenant Dietzel: Evidence.com by Taser logs who is watching a tape and how often they are watching it. It also logs who and when a tape is changing the 120 days to a longer retention.

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- C: Detective Cassandra Bailey: As an officer who has responded to calls, whenever we are required to ask questions, individuals are not required to share any information nor do we, as officers, force the individuals to do so.
- C: Lisa Chavez: from personal experience it is better for officers to know so that they can help them.
- C: Paula Burton: I know I have been maliciously used. I got a copy of the video as did the party requesting a copy. It is worth raising those issues with the legislature
- C: Betty Whiton: We really advocate for mental health. We do not have a problem with the videotaping. What we do have a problem with is who they are being released to. We have to ensure the protection of people with mental illness. We need to work with other groups such as the ACLU. Those groups that have concerns with redacting public records. Need a change of the laws.
- Q: Laura Nguyen: Does a person have a right to waive the law?
- C: Ethan Watson: Not really. Not too sure without seeing the specific circumstances
- C: Lieutenant Dietzel: Maybe we need to get something together and take it to the legislature. So that there is more defined law. Dig down and determine what is okay and what isn't. We need to get the definition really clear. Privacy is here but the definition is here. Don't want to have to rely on the SOPs. Should be working on the legislature.
- C: Ethan Watson: We never have requested guidance from legal regarding clinician interactions at the hospital.
- C: Danny Whatley: the policy contradicts itself, if you are in the hospital. The monitoring team and APD had a hard time trying to determine what had actually happened.
- C: Lindsey Van Meter: Should be able to keep camera on while in the hospital.
- C: Lieutenant Dietzel: The issue on the hospital, we may be able to redact based on it being a medical facility. As far as concerns about Section B involving tactics: one of the paragraphs in the CASA specifically agrees to that. We don't want to tip our hands.
- C: Acting Commander Cecily Barker: During tactics and case strategy, the mute would be on. The mute function is no longer allowed because officer would forget to unmute. Turning the camera off allows officer things that don't need to be part of public record. There are times it is turned off to speak to trainees or discuss interrogation tactics. The sanctions are very high if officers forget to turn the cameras back on.
- C: Maxwell Kauffman: feels it is still an issue. One officer mutes the other doesn't. That's important. Missing piece of information. To protect both APD and the public.
- C: Lieutenant Dietzel: They may be speaking about something that is very specific to the situation based on what the person is exhibiting. There are two ways to look at it.
- C: Detective Cassandra Bailey: It is more for discussing tactics for officer safety. Two different matters.
- C: Acting Commander Cecily Barker: There will be officer training on Power DMS
- Q: David Ley: If a citizen says before I respond to your question, I would like you to stop the recording?
- A: Acting Commander Cecily Barker: That is officer discretion. Mainly if it is an interview with a victim.
- C: David Ley: We can work at MHRAC in trainings to let the officers know.
- C: Lieutenant Dietzel: Will look to see if it says behavioral health incident sanctions for not recording.
- C: Maxwell Kauffman: Right to remain silent.

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- Q: Danny Whatley: any comments about on-body camera?
- Q: Betty Whiton: I have a question for Lt. Dietzel: Does the clinician wear a camera?
- A: Lieutenant Dietzel: No. However, if the officer's on-body camera catches some of the conversation it is recorded.
- C: David Ley: Clinicians are part of HIPPA however APD is not.
- C: Sarah Alires: the issue has come up before. The clinician does ensure or limit officers that are nearby.
- Q: David Ley: Does the clinician remind the individuals they are being recorded?
- A: Sarah Alires: it is not part of the script but they can.

Motion to Move CASA Paragraphs Discussion Lead by Danny Whatley:

Danny Whatley informed the board that he feels this move is a positive thing. MHRAC has accomplished a lot to be where they are at. It is a good move and he personally would support it. He then asked MHRAC board members what they thought.

(Q) Questions, (A) Answers, (C) Comments:

- Q: Rick Miera: I think we exist because we do well because of the stand we have on the CASA. Would we still get the same support?
- A: Deputy Chief Garcia: The next step would be an ordinance that would keep MHRAC going.
- Q: David Ley: Would it still give us the authority to get the information? If not for the CASA, we would not have got this.
- A: Deputy Chief Garcia: We want it to keep going even if those of us here are gone. That is why we would do the ordinance.
- Q: Rick Miera: Who pursues it?
- A: Lindsey Van Meter: The Monitoring Team said we should do the ordinance. We have a meeting next week on the issue. We are not asking that the CASA go away. We are just asking for self-monitoring. All the specified paragraphs have been in operational compliance for over 2 years. We will continue executing the processes. If is good if we learn on these paragraphs. We would still have feedback of the DOJ and monitor reviewing it.
- Q: Danny Whatley: any questions, comments? The court wants to hear from us.
- C: David Ley: Move for the committee to agree to it. Take the training wheels off.
- C: Dave Webster: Second the motion
- C: The motion carried.
- C: Deputy Chief Garcia: A big part of the paragraphs that are being asked to be moved are behavioral health related. This is based on the good work of all his people and MHRAC.

MHRAC Year-End Reports Lead by Danny Whatley:

Danny Whatley informed the board that the two sub-committee's year end reports, along with the Co-Chair letter were submitted to them via email. He asked if there were any questions on any of them. David Webster made a motion to approve the reports and letter as written. Lieutenant Dietzel second the motion. The Year-End Reports and Co-Chair letter were approved as written.

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MHRAC in 2020 Discussion Lead by Danny Whatley:

Danny Whatley informed the board that they would need to give some effort for determining MHRAC in 2020. The Gateway Center would be new for the board. The CASA is all about APD. Other departments have said it's about APD not us. Gateway does make it about other city departments. Danny Whatley realized that one of the things the board may run into is that some of the providers on the board may put in for the Requests for Proposals (RFPs) that will be going out. Other issues to be addressed will be: IPRA and the motion the self-monitor. He asked if the board to think about anything else.

(Q) Questions, (A) Answers, (C) Comments:

- C: David Ley stated that the Training Sub-Committee made a lot of progress with CNT and integrating training with CIU. He stated it still seems up in the air. There is also the question of whether there are clinicians volunteering to assist with CNT. The Training Sub-Committee has interest in that and would like it on the record.
- C: Paula Burton: Would like MHRAC to do a review and add additional officers to CIU. Will follow-up and make that recommendation official
- Q: Danny Whatley: Questioned if that was part of the CASA?
- C: Paula Burton: stated it was and made a motion that they add officers to CIU.
- C: Dave Webster: second the motion.

Report and update from CIU, APD and Dr. Rosenbaum:

Lieutenant Dietzel informed the board that Detective David Baca had retired. He is one of the home visit detectives. He also mentioned that AMICI stated that the general public is not informed of the progress of the CASA. He stated that AMICI is not as informed as MHRAC is. APD is more than willing to present all the data that shows where CIU is at. He also asked that board members please respond by email to those SOPS that were sent to them. They are basically minor fixes. He said that in the future there may be a need to develop a third SOP.

Assistant City Attorney, Lyndsey Van Meter was present to answer any questions, if needed.

Report and update from C.O.A.S.T.

Rob Nelson stated that strategic outreach continues. He mentioned that CIU and COAST adopted two families for the Christmas Holiday. Staff donated approximately \$400. Some toys were donated. Food baskets were given out. Lieutenant Dietzel said that COAST Specialist Celina Lopez was nominated by her area command for civilian of the month.

Danny Whatley mentioned that most providers that work with COAST appreciate all the work that COAST does.

Report and update from sub-committees:

Information Sharing/Resource Sub-Committee:

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Lieutenant Dietzel: the Information Sharing/Resource Sub-Committee has been reviewing the policy revisions. Gilbert Ramirez discussed the new help number. They try to use one of the city sponsored providers. The concern is the person may not want the help or may have already left that specific location. Will look to see how effective it is. If it is effective, they will expand.

Training Sub-Committee:

The Training Sub-Committee will be meeting in February.

MHRAC Final Discussion:

In closing, Danny Whatley discussed the Co-Chairs upcoming calendar. They have a meeting with the DOJ and APD, a meeting with Lindsey Van Meter and a meeting to discuss their next meeting with the DOJ. They have a request to the DOJ of what we want to discuss.

Adjourn

Meeting adjourned at 6:51 PM