



CITY OF WORCESTER, MASSACHUSETTS
Department of Health & Human Services
Division of Public Health



Public Health
Prevent. Promote. Protect.

Matilde Castiel, MD
Health & Human Services
Commissioner

Karyn E. Clark
Public Health
Director

DATE: June 25, 2020
RE: WORCESTER BOARD OF HEALTH MEETING
START TIME: 6:30 PM
LOCATION: WEB EX CONFERENCE CALL

Welcome & Introductions:

Meeting was called to order at 6:35pm.

Members on call: Edith Claros, PhD, Chair, Jerry Gurwitz, MD, Vice Chair, Frances Anthes, Chareese Allen and David Fort WPDH Staff: Karyn Clark, Director of DPH, Colleen Bolen, Deputy Director of DPH, Michael Hirsh, MD, Medical Director of DPH, Matilde Castiel, MD, Commissioner of HHS, Patricia Bruchmann, Chief Public Health Nurse, Michael Traynor, City Solicitor, Cassandra Andersen, Chief of Community Health and Michele Williams, Principal Clerk

Approval of the June 1, 2020 Meeting Minutes:

Motion to approve the WBOH meeting minutes of June 1, 2020 made by Jerry Gurwitz, MD, Vice Chair, Second –David Fort – Approved

Approval of the June 25, 2020 Agenda:

Motion to approve the WBOH meeting agenda of June 25, 2020 made by Frances Anthes, Second – David Fort – Approved

Edith Claros, PhD, Chair: Briefed the attendees on the call how the BOH was established and what their role is as a BOH member. The discussion tonight is in furtherance of the statement issued by the BOH on June 1, 2020 concerning racism and discrimination as it pertains to issues of public health.

Review and discussion relative to WPD / racism and discrimination:

David Fort: Called this BOH meeting to make action on racism and discrimination not just write a statement. The purpose of this meeting is to finalize the list of recommendations that will be sent to the WPD. Inviting the representatives of the WPD to attend our next BOH meeting on July 13, 2020. Believes these recommendations will decrease the probability of active police brutality among police officers in the City, increase the likelihood of weaning out officers who possess racist or bigoted view points and to increase opportunities to build/rebuild between the WPD and the African- Americans/Latino/LGBTQ and other communities that were affected by racism, bigotry and police brutality. Racism and discrimination is one of the priority areas on the Community Health Improvement Plan (CHIP). Believes that the CHIP could help to build a bridge between the



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black and brown communities in the City of Worcester and the WPD and decrease the probability of incidences in police brutality in this city. Racism, discrimination and police brutality are public health issues. Described the racism and discrimination he had encountered. Briefed the BOH on the presentation of 12 recommendations to the WPD to eliminate racism and to mitigate the potential for police brutality. (Distributed) Seeking that the WPD write a formal statement to the BOH and to the residents of Worcester by, before or soon after our BOH meeting on July 13, 2020 on how and when they will specifically address each individual recommendation.

Jerry Gurwitz, MD, Vice Chair: Supportive of these recommendations. Believes this is a public health issue and wants to continue to focus on this.

Frances Anthes: Also supportive of these recommendations. We have lots to learn about this history. Working together is necessary in keeping this community moving forward.

Michael Hirsh, MD, Medical Director of DPH: Have seen the WPD develop a Gang Task Force that also identifies at risk youths and provides them with boxing camps, summer camps, field trips and also mentoring our physicians at UMass. Worcester has a gun buyback program and we have encouraged over 40 Police Departments around the country to join us. The Quality of Life program is staffed by a social worker and 2 police officers that go around the city looking for the places where the homeless are staying and reach out to them to provide services and medical care. There are over 50 Crime Watch meetings per month through the Police Department, which is a great level of community engagement. Systemic racism is a public health priority and has been in both versions of the CHIP in 2013 and 2016 and will be featured in our 2020 CHIP. This community working together can solve the most difficult problems. Very fond of all the work that the BOH does.

Matilde Castiel, MD, Commissioner of HHS: Most important is listening to the stories and how people have been affected. Racism exists through all fields whether it be the police department, businesses, medicine, housing and education. Until we start to listen and talk with one another and understand the stories and their experiences, that's the only way it will change.

Chareese Allen: Described the racism and discrimination she had encountered. Suggests getting group leaders together with WPD and BOH to hear what their complaints are then work together to resolve this issue. Can we possibly see the diversity of the Police Department?

Edith Claros, PhD, Chair: Recognizes that racism and discrimination are very important topics. The City of Worcester has worked hard on the Community Health Improvement Plan (CHIP) and this is one of the top priorities. This has come across multiple domains. Described the racism and discrimination she had encountered. This does not reflect every individual in the police force. The WPD and the City of Worcester have worked for many years to develop a strong collaborative and respectful working relationship on similar issues. Some of the recommendations are a little inflammatory and cast some judgement. I would like to make a recommendation that we work with the CHIP and address the systemic racism and discrimination and work with that prospective. There is room for improvement and policy changes.

BOH members: Commend the work on this presentation done by David Fort.

Review and discussion on the Community Health Improvement Plan (CHIP):

Cassandra Andersen, Chief of Community Health: There are 2 different parts of the CHIP presentation; 1) Racism and Discrimination Priority 2) Safety Priority. Briefed the BOH on the overview of what has been done and the different goals and objectives. We work with with the Coalition for a Healthy Greater Worcester and a number of community organizations and community members. The Coalition for a Healthy Greater Worcester established a Racism and Discrimination Working Group that meets monthly. Since 2016 there have been a number of trainings that have been held; 1) Undoing Racism, 2) Latino Challenges Towards Racial Justice; 3) Trauma Resiliency and Racial Equity. In 2018 10 Police Officers volunteered for the Bigs in Blue Program. This is a one-on- one mentoring program that connects youth with police in the community, building strong and trusting relationships. 20 Operations Officers have participated in the Youth Police Dialogue Program, which shows that officers that who participated have a deeper understanding about the realities that young people are facing living in Worcester neighborhoods.

David Fort: Appreciates everyone's opinion and is aware of what the WPD are doing. This is an opportunity for discussion with the WPD to build stronger ties with the black and brown communities of Worcester. The citizens of this community also want to be a part of this discussion.

Edith Claros, PhD, Chair: We are in this together and need communication to make this work. In this recommendation letter, there is language that I feel will set back some of the strong relationships the WDPH has with the WPD. There is room for improvement in every institution, not just the WPD. As the BOH we should address how this relates to public health issues as discrimination and racism from various institutions.

Frances Anthes made a motion to have Karyn Clark, Director of DPH, as a liaison, set up a meeting with Edith Claros, PhD, Chair, David Fort and the Chief of Police and forward the recommendations in advance to open up the lines of communications and attend the next BOH meeting on July 13, 2020. Seconded by David Fort. BOH members: 3 – yes, 1- no with one absentee: Chareese Allen. The motion passed unanimously

Motion to adjourn; Jerry Gurwitz, MD, Vice Chair - seconded by David Fort
Adjourn: 8:54pm

Next Meeting -- July 13, 2020 at 6:30pm

Potential Future Meeting Topics:

Adoption of new state tobacco laws at the local level – Hearing and vote
Continued discussion on the recommendations for the WPD

Regulation of the Worcester Board of Health
Restricting the Sale of Cigars, Electronic Nicotine Delivery Systems, and Flavored Tobacco Products

A. Statement of Purpose:

Whereas, the City of Worcester Board of Health makes the following findings:

1. There exists conclusive and voluminous evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat;
2. The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development, and that it is addiction to nicotine that keeps youth smoking past adolescence;
3. There are an estimated 31,488 smokers who reside in the city of Worcester;
4. 18.1% of adults in the city of Worcester over 18 years of age smoke, a level which is 21% higher than the statewide average of 15%;
5. Lung cancer incidence is 19% higher among males in Worcester compared to the state level – The age-adjusted lung cancer incidence (per 100,000) for males is 97.6 in Worcester and 82.2 in Massachusetts;
6. Lung cancer incidence is 19% higher among females in Worcester compared to the state level - The age-adjusted lung cancer incidence (per 100,000) for females is 70.8 in Worcester and 665.5 in Massachusetts;
7. Mortality from lung cancer is 17% higher in Worcester compared to Massachusetts;
8. Tobacco causes an estimated 438,000 deaths annually in the United States and over 8,000 deaths annually in the commonwealth of Massachusetts;
9. The death rate of Worcester residents from tobacco on a per capita basis is approximately 250 individuals annually, or five human lives lost per week.
10. At least one-half of all smokers begin smoking before the age of eighteen and an estimated 3,000 minors begin smoking every day in the United States;
11. The sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication;
12. There are certain tobacco products such as blunt wraps that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia;
13. Among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station;
14. The U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;
15. The U.S. Food and Drug Administration and the Tobacco Products Scientific Advisory

Committee concluded that menthol flavored tobacco products increased nicotine dependence, and decreased success in smoking cessation;

16. Menthol makes it easier to youth to initiate tobacco use;
17. The use of electronic cigarettes among students in Massachusetts is 20.1%, representing a 78% increase for high schoolers and a 48% increase for middle schoolers from 2017 to 2018;
18. Nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;
19. The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an “acutely hazardous waste” (310 CMR 30.136);
20. In a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one;
21. According to the CDC’s youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days was 10.8% in 2013;
22. In Massachusetts, youth use of cigars and smokeless tobacco (12.3%) is higher than the rate of current cigarette use (10.7%) for 2013 and has remained elevated since 2009;
23. The Massachusetts Supreme Judicial Court has held that “...[t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.”

Whereas, the City Council of the City of Worcester has enacted Chapter 8, §3 of the Revised Ordinances of the City of Worcester, the Tobacco Products Control Ordinance to protect and promote the public health through regulation of the sale of tobacco products; and

Whereas, the Worcester Board of Health has determined that additional regulations are necessary and appropriate in order to realize the protection and promotion of the public health contemplated;

Now therefore, the Worcester Board of Health is compelled to further regulate the sale of tobacco products.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Worcester Board of Health by Chapter 120 of the Acts of 2014 and Article Six of the Home Rule Charter.

C. Definitions:

For the purpose of this regulation, the definitions found in Chapter 8, § 3 (b) of the Revised Ordinances of the City of Worcester shall apply; and additionally the following words shall have the following meanings:

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined

to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Distinguishable: Perceivable by either the sense of smell or taste.

Electronic Nicotine Delivery System: An electronic device, whether for 1-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar systems that rely on vaporization or aerosolization. "Electronic nicotine delivery system" shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device. "Electronic nicotine delivery system" shall also include any component, part, or accessory of a device used during the operation of the device even if the part or accessory was sold separately. "Electronic nicotine delivery system" shall not include a product that has been approved by the United States Food and Drug Administration for sale or use as a tobacco cessation product or for other medical purposes and that is marketed and sold or prescribed exclusively for that approved purpose.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

Tobacco Product Flavor Enhancer: Any product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to any tobacco product.

D. Cigar Sales Regulated:

1. No person shall sell or distribute or cause to be sold or distributed a single cigar unless such cigar is priced for retail sale at two dollars and fifty cents (\$2.50) or more.
2. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at five dollars (\$5.00) or more.
3. This Section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Worcester.
4. The Worcester Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

E. Sale of Flavored Tobacco Products Prohibited:

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, as defined herein, or any flavored tobacco product enhancer, as defined herein, except in smoking bars for on-site consumption only.

F. Nicotine Content in Electronic Nicotine Delivery Systems:

No person shall sell an electronic nicotine delivery system with nicotine content greater than 35 milligrams per milliliter; provided, however, that this subsection shall not apply to retail tobacco stores or smoking bars.

G. Incorporation of State Laws and State Regulations:

The sale or distribution of the products defined herein, must comply with those provisions found at General Laws, Chapter 270, §§28 and 29, and General Laws Chapter 112, §61A.

H. Violations:

1. Fines, Penalties and Enforcement Authority.

- (a) This regulation may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D, and further, where applicable, as set forth in General Laws, Chapter 270, §§28 and 29.
- (b) The provisions of this regulation may be enforced by any authorized agent or officer of the city of Worcester on any public property, on any private property which is subject to any permit required by this regulation or any private property which is open to public use.
- (c) Every day or part thereof in which any person is in violation of these provisions shall constitute a single and separate offense.
- (d) Any person who violates any provision in any of the following subsection of this regulation:
 - (D) Cigar Sales Regulatedshall be punished with a civil penalty of \$300 or a criminal fine of \$300.
- (e) Any person who violates any provision in any of the following subsections of this regulation:
 - (E) Sale of Flavored Tobacco Products Prohibited
 - (F) Nicotine Content in Electronic Nicotine Delivery Systemsshall be punished with the following penalties as imposed by state laws and state regulations:
 - a. In the case of a first violation, a fine of one thousand dollars (\$1,000.00).
 - b. In the case of a second violation within thirty six months of the date of the current violation, a fine of two thousand dollars (\$2,000.00) shall be issued.
 - c. In the case of three or more violations within a thirty-six month period, a fine of five thousand dollars (\$5,000.00) shall be issued.
- (f) In addition to the monetary fines and penalties described above, any person who violates any of the provisions of subsections (D) (E) or (F) of this regulation shall be subject to the suspension or revocation of any permit issued under authority of those subsections by the board of health as further provided herein.
- (g) Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the permit for up to thirty consecutive business days.

- (h) In addition to the fines and penalties set forth above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended or revoked shall be subject to the suspension or revocation of all board of health issued permits for thirty consecutive business days.
- (i) The director shall provide notice of the intent of the board of health to suspend or revoke any permit, which notice shall contain the reasons therefor together with documentation of the alleged violations. The notice shall establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The hearing shall be conducted by the board of health, or its designee, as the board in its sole discretion may determine. The alleged violator, permit holder or its business agent and legal counsel shall have an opportunity to be heard at such hearing. The alleged violator or permit holder shall be notified of the decision and the reasons therefore in writing. For purposes of any such suspension or revocation, the board of health, or its designee, shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the General Laws for the same offense. All tobacco products shall be removed immediately from the retail establishment upon suspension or revocation of any tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation with each day constituting a separate offense punishable by a fine or penalty of \$300 or by injunctive relief.

I. Effective Date:

Date of Adoption: _____, 2020

This regulation shall take effect on _____, 2020.

Worcester Board of Health

**Recommendations to the WPD to
Eliminate Racism and to Mitigate the
Potential for Police Brutality**

Important Statistics

- Black men are 2 to 2.5 times as likely to be shot and killed by a police officer in their lifetimes than whites.
- Black women are 1.4 times as likely to be shot and killed by police officers than white women.
- Blacks that were shot and killed by the police were twice as likely to be unarmed. Actually 17% of Blacks who were killed by police were unarmed.

Important Statistics

- Police violence is the leading cause of death for black men between 25-29.
- Blacks go to the Emergency Department 4.9 times more than whites with law enforcement caused injuries.

Important Statistics

- Majority of Blacks and Whites believe that Blacks are treated less fairly by police officers than Whites. 84% of Blacks and 64% of Whites, respectively.
- Majority of Blacks and Whites believe that the U.S. Justice system treats Blacks less fairly than Whites. 87% of Blacks and 64% of Whites, respectively.

Important Statistics

- Black adults are 5 times as likely to say that they were unfairly stopped by police officers because of their race compared to whites.

Important Statistics

- 57% of Black officers, 27% of White officers and 26% of Hispanic officers felt that these fatal encounters were signs of a broader problem between the police and the Black community.

The BOH Recommends

- The Worcester Board of Health recommends that the Worcester Police Department and police officers in the city of Worcester (and members of other law enforcement agencies that operate in the city of Worcester) do the following to protect and build trust with the African-American community and other communities historically impacted by racism, bigotry, and racist violence:

Recommendation #1

- **Acknowledge that racist/bigoted viewpoints and structural racism are pervasive in society and in all institutions, even among police departments.**

Recommendation #2

- **Adopt the element of the Massachusetts Black and Latino Legislative Caucus“ 10 Point Plan” that includes this specific item: Peace Officer Standards and Training (POST): Establishes a statewide POST system to certify police officers and enable de-certification for misconduct and abuse.**

Recommendation #3

- **Commit to urgently develop a comprehensive plan to identify (i.e. through previous actions, social media, background checks, etc.) those police officers that may possess racist/bigoted viewpoints.**

Recommendation #4

- Once officers who may possess these views are identified, commit to educate, re-train and/or if necessary, preclude (in the case of cadets) or dismiss (in the case of current officers) officers who possess these viewpoints and are inclined to impose these views to mistreat (i.e. physically, verbally, legally, etc.) black, brown and other historically discriminated racial and socio-economic groups.

Recommendation #5

- **Be immediately and continuously transparent and fair in the investigation of police officers who have been accused of police misconduct/brutality.**

Recommendation #6

- Commit to working with a newly established, community police misconduct review board which is comprised of residents of the city of Worcester and have at least 50% of its members from the following communities:

Recommendation #6(cont.)

- African-Americans, Latinos, Asians, Native Americans.
The makeup of the Board should also include members from the following communities whom have been affected by racism, bigotry and racist violence:
 - a. LGBTQ+
 - b. Mental Health
 - c. Homeless
 - d. Drug/Alcohol Recovery
 - e. Youth
 - f. Low-Income
 - g. Domestic Violence Survivors

Recommendation #7

- **Every police officer should be required to attend anti-racist/anti-bigoted workshops annually and at least twice a year, require officers to read publications or view informational videos (and produce a short written report afterwards) that are geared towards improving the understanding of the various communities mentioned above.**

Recommendation #8

- **Commit to developing healthy and non-violent relationships with all members of the African-American community and other members of communities that have a history of suffering police brutality and misconduct.**

Recommendation #9

- Adopt the element of the Massachusetts Black and Latino Legislative Caucus“ 10 Point Plan” that includes this specific item: Adopt clear statutory limits on police use of force, including choke-holds and other tactics known to have deadly consequences. Require independent investigation of officer-related deaths. Require data collection and reporting on race, regarding all arrests and police use of force by every department.

Recommendation #10

- Adopt the element of the Massachusetts Black and Latino Legislative Caucus“ 10 Point Plan” that includes this specific item: Civil Service Exam Review and Oversight:

Establishes an Office of Diversity and Equal Opportunity to establish guidelines and review for diversity plans for all state agencies;

Establishes a peace officer exam advisory board to review examinations for appointment and promotion of peace officers.

Recommendation #11

- **Commit to providing training on and implementation of internal and external de-escalation resources.**

Recommendation #12

- Establish a consistent periodic schedule to update the members of the BOH and the Worcester Community (i.e. via the media and in-person community meetings, etc) on the progress of your efforts.
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The BOH Recommends

- The BOH is seeking for the WPD to issue a formal statement to the BOH and to the residents of Worcester by, before or soon after our next BOH meeting (i.e. July 13th), on how and when (i.e. include specific timelines) they will specifically address each individual recommendation. The BOH is recommending that the WPD issue an annual report on its efforts to reduce racist/anti-Black and Brown/bigoted views amongst its ranks, increase more officers who are anti-racist/anti-bigoted and build stronger ties to the Black and Brown communities of Worcester and other historically affected communities