

MEMORANDUM
COMMUNITY POLICE REVIEW BOARD
A Board of the City of Iowa City

DATE: January 2, 2019
TO: CPRB Members
FROM: Chris Olney
RE: Board Packet for meeting on January 8, 2019

Enclosed please find the following documents for your review and comment at the next board meeting:

- Agenda for 1/8/19
 - Minutes of the meeting on 12/11/18
 - ICPD General Orders 89-04 (Civil Rights)
 - ICPD General Orders 99-01 (Police Vehicle Pursuits)
 - Proposed Ordinance Change – 12/18/18 City Council Work Session Transcription
 - Office Contacts – December 2018
 - Complaint Deadlines
-

Other resources available:

[National Association for Civilian Oversight of Law Enforcement](#)

NACOLE provides information regarding civilian oversight in law enforcement nation wide. For more information see: www.NACOLE.org

COMMUNITY POLICE REVIEW BOARD
Tuesday, January 8, 2019 – 5:30 p.m.
HELLING CONFERENCE ROOM
410 E Washington Street

- ITEM NO. 1** **CALL TO ORDER and ROLL CALL**
- ITEM NO. 2** **CONSIDER MOTION ADOPTING CONSENT CALENDAR AS PRESENTED OR AMENDED**
- Minutes of the meeting on 12/11/18
 - ICPD General Orders 89-04 (Civil Rights)
 - ICPD General Orders 99-01 (Police Vehicle Pursuits)
- ITEM NO. 3** **NEW BUSINESS**
- Community Forum
- ITEM NO. 4** **OLD BUSINESS**
- Proposed Ordinance Change
- ITEM NO. 5** **PUBLIC DISCUSSION**
- ITEM NO. 6** **BOARD INFORMATION**
- ITEM NO. 7** **STAFF INFORMATION**
- ITEM NO. 8** **CONSIDER MOTION TO ADJOURN TO EXECUTIVE SESSION** based on Section 21.5(1)(a) of the Code of Iowa to review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that government body's possession or continued receipt of federal funds, and 22.7(11) personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts, and 22-7(5) police officer investigative reports, except where disclosure is authorized elsewhere in the Code; and 22.7(18) Communications not required by law, rule or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination.
- ITEM NO. 9** **TENATIVE MEETING SCHEDULE and FUTURE AGENDAS**
- February 12, 2019, 5:30 p.m. Helling Conference Rm
 - March 12, 2019, 5:30 p.m. Helling Conference Rm
 - April 9, 2019, 5:30 p.m. Helling Conference Rm
 - May 14, 2019, 2019, 5:30 p.m. Helling Conference Rm
- ITEM NO. 10** **ADJOURNMENT**

If you will need disability-related accommodations in order to participate in this program/event, please contact Chris Olney at 319-356-5043, christine-olney@iowa-city.org. Early requests are strongly encouraged to allow sufficient time to meet your access needs.

**COMMUNITY POLICE REVIEW BOARD
MINUTES – December 11, 2018**

CALL TO ORDER: Chair Don King called the meeting to order at 5:30 P.M.

MEMBERS PRESENT: Monique Green, Latisha McDaniel, Orville Townsend

MEMBERS ABSENT: David Selmer

STAFF PRESENT: Legal Counsel Pat Ford, Staff Chris Olney

OTHERS PRESENT: Iowa City Police Chief Matherly, Sgt. Scott Stevens

RECOMMENDATIONS TO COUNCIL

None.

CONSENT CALENDAR

Motion by Galpin, seconded by Townsend, to adopt the consent calendar as presented or amended.

- Minutes of the meeting on 11/13/18
- ICPD General Orders 99-10 (Domestic Violence)
- ICPD General Orders 00-05 (Off-Duty Conduct: Powers of Arrest)
- ICPD General Orders 90-03 (Personal Appearance and Uniform Regulations)
- ICPD General Orders 13-01 (Chaplain Program)
- ICPD General Orders 00-06 (Special Purpose Vehicles)
- ICPD General Orders 00-01 (Search and Seizure)
- ICPD General Orders 17-01 (Polygraph)

Discussion: Members had questions regarding General Orders, which Chief Matherly was able to answer.

Motion carried, 4/0, Selmer absent.

NEW BUSINESS

None.

OLD BUSINESS

ICPD General Orders 99-01 Domestic Violence – Police Sgt. Scott Stevens gave a summary of what the (ODARA) Ontario Domestic Assault Risk Assessment Form is and how the police department uses it as a reporting tool.

Proposed Ordinance Change Memo - Olney stated that the item will be scheduled for the December 18th City Council work session at 5:00 p.m. for further discussion. Comments (either from the Chair or a representative from the Commission) will be welcome at the meeting. King said he is unable to attend and asked for volunteers. Townsend and Galpin volunteered to attend.

King suggested that the Board consider removing Item 11 of the proposed ordinance change memo that was submitted to Council as it was already an option to hire an investigator. Ford clarified that the Board currently has the option of hiring an independent investigator when Level of Review is set prior to issuing a public report.

The Board discussed the benefits of being able to meet with the Police Chief prior to issuing the public report. Townsend felt the memo should remain as it was written.

Motion by Townsend, seconded by Galpin, to leave item 11 as it was written in the proposed ordinance change memo submitted to Council.

Motion carried, 4/0, Selmer absent.

PUBLIC DISCUSSION

None.

BOARD INFORMATION

None.

STAFF INFORMATION

Olney reminded the Board that the deadline to register for the voluntary Board Commission Training 101 was Thursday, December 13th.

TENTATIVE MEETING SCHEDULE and FUTURE AGENDAS (subject to change)

- January 8, 2019, 5:30 PM, Helling Conference Rm
- February 12, 2019, 5:30 PM, Helling Conference Rm
- March 12, 2019, 5:30 PM, Helling Conference Rm
- April 9, 2019, 6:00 PM, IC Public Library (Community Forum)

ADJOURNMENT

Motion for adjournment by Townsend, seconded by Galpin.

Motion carried, 4/0, Selmer absent.

Meeting adjourned at 6:31 P.M.

**COMMUNITY POLICE REVIEW BOARD
ATTENDANCE RECORD
YEAR 2017-2018**

(Meeting Date)

NAME	TERM EXP.	12/7	1/9/18	2/13/18	3/19/18	4/17/18	4/23/18	5/8/18	6/12/18	7/23/18	8/21/18	9/11/18	10/9/18	11/13/18	12/11/18
Donald King	7/1/19	X	O	X	X	X	X	X	X	X	X	X	O	X	X
Monique Galpin	7/1/20	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Orville Townsend	7/1/20	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Latisha McDaniel	7/1/21	---	---	---	---	---	---	---	---	---	---	---	X	O	X
Royceann Porter	7/1/21	---	---	X	O/E	X	O/E	X	O/E	---	---	---	---	---	---
David Selmer	7/1/21	X	X	X	X	X	X	X	X	X	O	X	O	X	O

KEY:

- X = Present**
- O = Absent**
- O/E = Absent/Excused**
- NM = No meeting**
- = Not a Member



CIVIL RIGHTS

<i>Original Date of Issue</i> May 20, 2000	<i>General Order Number</i> 89-04
<i>Effective Date of Reissue</i> December 10, 2018	<i>Section Code</i> LEG-01
<i>Reevaluation Date</i> December 2019	<i>Amends</i>
<i>C.A.L.E.A.</i> 1.2.3, 1.2.5	<i>Reference</i> (see "INDEX AS:")

INDEX AS:

Civil Rights	Arrests	Use of Force
Rights, Civil	Warrants	
Rights, Individual	Search and Seizure	

I. PURPOSE

The purpose of this order is to consolidate the policy of the Iowa City Police Department on civil rights as already expressed in current Department rules, directives, and other publications. This order will reaffirm the Department's determination to observe, uphold, and enforce all laws pertaining to the individual rights of each person without regard to age, race, color, creed, religion, sex, national origin, economic status, marital status, disability, sexual orientation or gender identity.

II. POLICY

It is the policy of the City of Iowa City and the Iowa City Police Department to ensure that the civil rights of the residents of Iowa City are upheld. Members of the department shall ensure that all constitutional protections are afforded those parties with whom the department is involved.

III. PROCEDURES

INDIVIDUAL RIGHTS

- A. All persons are guaranteed protection against unlawful arrest and unreasonable search or seizure. (see general order 00-01, Search and Seizure)
- B. Department personnel shall uphold these rights by:
 - 1. Taking a person into custody only when there is reasonable grounds to believe that:
 - a. An arrest warrant exists for the person, or
 - b. The person has committed or is committing a violation of the law, or
 - c. The person may be a harm to themselves or others.
 - 2. Entering a private dwelling only when he/she:
 - a. Has in his/her possession a search warrant authorizing him/her to do so, or
 - b. Has reason to believe that immediate entry is necessary to protect a person within such private dwelling from death or serious injury, or
 - c. Can otherwise legally justify his/her action.
 - 3. Taking from an individual only such property as he/she is legally authorized to take, and recognizing that he/she is responsible and must account for all such property.
- C. When making an arrest or searching and seizing property, Department personnel shall use only such force which is reasonable and necessary and in compliance with departmental directives pertaining to the use of force. (see general order 99-05, Use of Force)
- D. At all times Department personnel shall:
 - 1. Never exhibit any bias or prejudice against any group or individual.
 - 2. Act, speak, and conduct themselves in such a manner as to treat all persons with courtesy and with that respect due to every person as a human being.

FIRST AMENDMENT RIGHTS

- A. All persons have the right to:
 - 1. Freedom of speech
 - 2. Peaceful assembly
 - 3. Peaceful picketing
 - 4. Distribution of handbills providing such distribution is not in conflict with the provisions of any City Ordinance
 - 5. Redress of grievances.
- B. The rights set out in paragraph A, above are not absolute, that is they do not mean that everyone with opinions or beliefs to express may do so at any public place, in any manner, and at any time. The exercise of these rights of free expression must not:
 - 1. Conflict with the governmental responsibility to keep public streets and public facilities open and available for public use.
 - 2. Use inflammatory language in public which the person using the language knows or reasonably should know is likely to provoke an imminent violent reaction by another.

- C. Resources of the Department will be employed to rapidly and decisively enforce statutes and ordinances which provide for the protection of the rights and property of all persons.
1. To the extent possible, Watch Commanders will assure that adequate staffing is available to control and maintain order in every instance where crowds have formed or are expected to form.
 2. Police personnel in command at the scene of any assembly must be aware of their responsibility to afford protection to both participants and non-participants, and will deal with illegal acts promptly, decisively, and impartially.
 3. The City of Iowa City and the Iowa City Police Department expressly prohibit any law enforcement agency operating within its jurisdiction from using excessive force against any individuals engaged in non-violent civil rights demonstrations.
 4. The City of Iowa City and the Iowa City Police Department shall enforce any applicable federal, state or local laws against physically barring entrances or exits from a facility or location that is the subject of a non-violent civil rights demonstration within its jurisdiction.
 5. The City of Iowa City and the Iowa City Police Department shall enforce this general order within its jurisdiction and will facilitate the filing of a complaint by any individual or group who feels that the City of Iowa City and/or Iowa City Police Department has not complied with this policy.

ARRESTED PERSONS

- A. All persons are guaranteed certain basic constitutional safeguards. These safeguards will not be denied any person even though he/she has committed, or is suspected of having committed, a criminal act.
- B. Department personnel will at all times be aware of a detainee's rights and shall:
 1. Permit the detainee to communicate with his/her attorney and/or a family by making a reasonable number of telephone calls.
 2. Expedite all necessary processing so the detainee will be detained no longer than necessary.
 3. Never use force or coercion in seeking admissions of guilt or confessions.
 4. Recognize and respect the detainee's right to refuse to give evidence against him/herself; however, there is no encroachment upon a detainee's rights if he/she should voluntarily supply such information.

RESPONSIBILITY

No officer shall base an action or decision on a person's age, race, color, creed, religion, sex, national origin, economic status, marital status, disability, sexual orientation or gender identity.

Each officer shall familiarize him/herself with the laws and Department directives pertaining to civil rights to insure his/her:

- A. Recognition of each person's civil rights and
- B. Compliance with all laws and Department directives relating to civil rights.

VIOLATIONS

Violations of this policy may be the basis of disciplinary action up to and including discharge from the Department. Egregious violations of persons' civil rights may result in individual liability and/or criminal sanctions.

Jody Matherly, Chief of Police

WARNING

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis for departmental administrative sanctions.



CIVIL RIGHTS

<i>Original Date of Issue</i> May 20, 2000	<i>General Order Number</i> 89-04
<i>Effective Date of Reissue</i> August 3, 2017	<i>Section Code</i> LEG-01
<i>Reevaluation Date</i> August 2018	<i>Amends</i>
<i>C.A.L.E.A.</i> 1.2.3, 1.2.5	<i>Reference</i> (see "INDEX AS:")

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CITIZENS GUARANTEE FIRST AMENDMENT RIGHTS

- A. All persons ~~of this country~~ have the are guaranteed the right to: seek redress of grievances by:
 - 1. Freedom of speech
 - 2. Peaceful assembly
 - 3. Peaceful picketing
 - 4. Distribution of handbills providing such distribution is not in conflict with the provisions of any City Ordinance
 - 4.5. Redress of grievances.
- B. The rights set out in paragraph A, above, ~~while fundamental in our democratic society, are not absolute, that is they~~ do not mean that everyone with opinions or beliefs to express may do so at any public place, in any manner, and at any time. ~~The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in excesses of anarchy.~~ The exercise of these rights of free expression must not:

1. Conflict with the governmental responsibility to keep public streets and public facilities open and available for public use.
 2. Use inflammatory language in public which the person using the language knows or reasonably should know is likely to provoke an imminent violent reaction by another. Include the use of inflammatory remarks related to any instance where a clear and present danger of a riot against any person or group of persons exists.
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POLICE VEHICLE PURSUITS

<i>Original Date of Issue</i> February 10, 1999	<i>General Order Number</i> 99-01
<i>Effective Date of Reissue</i> December 18, 2018	<i>Section Code</i> OPS-02
<i>Reevaluation Date</i> December 2019	<i>Amends</i> Previous version of 99-01
<i>C.A.L.E.A.</i> 1.2.7, 1.3.2, 41.2.1, 41.2.2, 41.2.3	<i>Reference</i> (see "INDEX AS:")

INDEX AS:

- Use of Force
- Tire Deflation Devices
- Vehicle Pursuits
- Reports

I. PURPOSE

It is the purpose of this policy to state the guidelines to be followed during vehicular pursuits.

II. POLICY: The Iowa City Police Department does not allow vehicle pursuits except in extreme circumstances. The initiation of a pursuit is justified only when, in the officer's judgment, the necessity of immediate apprehension outweighs the level of danger to the officer and public created by the pursuit and the pursuit would be allowed by the pursuit matrix contained herein. This evaluation must continue throughout the course of the pursuit by the officer and his/her supervisor. All pursuits will be conducted in strict accordance with section 321.231 of the Code of Iowa and all emergency vehicles will utilize both audible and visual signaling devices when engaged in pursuits.

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III. DEFINITIONS

321.231 Authorized emergency vehicles and police bicycles.

1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section.
2. The driver of any authorized emergency vehicle, may:
 - a. Park or stand an authorized emergency vehicle, irrespective of the provisions of this chapter.
 - b. Disregard laws or regulations governing direction of movement for the minimum distance necessary before an alternative route that conforms to the traffic laws and regulations is available.
3. The driver of a fire department vehicle, police vehicle, or ambulance, or a peace officer riding a police bicycle in the line of duty may do any of the following:
 - a. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - b. Exceed the maximum speed limits so long as the driver does not endanger life or property.
4. The exemptions granted to an authorized emergency vehicle under subsection 2 and for a fire department vehicle, police vehicle or ambulance as provided in subsection 3 shall apply only when such vehicle is making use of an audible signaling device meeting the requirements of section 321.433, or a visual signaling device approved by the department except that use of an audible or visual signaling device shall not be required when exercising the exemption granted under subsection 3, paragraph "b" of this section when the vehicle is operated by a peace officer, pursuing a suspected violator of the speed restrictions imposed by or pursuant to this chapter, for the purpose of determining the speed of travel of such suspected violator.
5. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

NOTE Police bicycles shall be operated in accordance with General Order 00-07 Police Cyclist.

The operator of a police bicycle, may, in the line of duty, do any of the following: Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; Exceed the maximum speed limits so long as the driver does not endanger life or property.

Pursuit - For this policy, pursuit means chasing a fleeing suspect who is exceeding the posted speed limit or driving in an evasive or unsafe manner.

Violent Felony Imminent Threat – For this policy, violent felony imminent threat means a person has used or threatened to use deadly force/inflict serious injury on another or an officer reasonably believes that a person would use deadly force/inflict serious injury against any person unless immediately apprehended.

Violent Felony Crimes- For this policy, a violent felony crime is defined as any crime designated as a felony under Iowa law that has as an element of the use, attempted use, or threatened use of physical force against another, or is burglary, arson, or extortion, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

Felony Property Crimes- For this policy, felony property crime means any property felony crime. This definition specifically includes (officers shall not pursue) a bank robbery where only a note was displayed, shoplifting related calls where no weapon was displayed, stolen vehicles, and suspected impaired drivers.

Serious Injury- For this policy serious injury means bodily injury which does any of the following: creates a substantial risk of death, causes serious permanent disfigurement, causes protracted loss or impairment of the function of any bodily member or organ.

IV. PROCEDURES

- A. Initiation: The pursuing officer must carefully consider the safety of persons and property before engaging in a vehicular pursuit. Some of the factors that should be considered when determining whether to initiate, continue or terminate a vehicular pursuit are:
1. Time of day – high speed pursuits occurring during a time when there is a high level of activity (businesses, schools), are normally more hazardous than those occurring during periods of low activity.
 2. Volume of vehicular traffic – pursuits occurring during periods of heavy traffic flow are more hazardous than those occurring at other times.
 3. Location of pursuit – pursuits through residential areas or along streets near or adjacent to schools are normally more hazardous than those in lightly populated areas.
 4. Weather conditions.
 5. Road conditions.
 6. Speed involved.
 7. Nature of the offense – pursuits for persons suspected of involvement in crimes against persons are viewed as more justifiable than those for persons suspected of traffic or other misdemeanor violations or property crimes. However, there shall be no assumption that the commission or suspected commission of a felony constitutes automatic authorization to pursue by vehicle.
 8. The condition of the police vehicle should be considered.
 9. Consideration should be given to the driving skills of the pursuing officer.

10. Consideration should be given to whether the offender can be identified and therefore apprehended by other means.
- B. Officers shall be familiar with and use the following Pursuit Decision Matrix as guidance in determining whether to initiate or continue a pursuit. The Pursuit Decision Matrix is very similar to the Use of Force Continuum as set out in the Department's Use of Force policy. It is a guide designed to assist the officers in their use of discretion and shall be followed when making vehicular pursuit decisions. The degrees of risk associated with vehicular pursuit in specific circumstances are defined as follows:

PURSUIT DECISION MATRIX GUIDES

LOWER RISK

1. Marked vehicles
2. Straight roads, good surfaces, clear line of sight
3. Few intersections
4. Few or no pedestrians
5. Good weather
6. No hazardous maneuvers by violator
7. Speeds at or less than 20 m.p.h. over the posted limit
8. Officer is calm and in control
9. Lack of special circumstances (i.e., school zones, hospitals, etc.)

MODERATE RISK

1. Some intersecting streets (i.e., residential area)
2. Light pedestrian traffic
3. Moderate traffic, little congestion
4. Speeds 20 m.p.h. greater than the posted speed limit
5. Officer generally calm, under control
6. Some hazardous, but not extreme maneuvers (i.e., crossing center line to pass vehicles, sudden lane changes) by the violator.

HIGH RISK

1. Frequent intersecting streets (i.e., a business district)
2. Poor weather, slippery streets, low visibility
3. Blind curves or intersections, narrow streets
4. Numerous pedestrians
5. Heavy, congested traffic
6. Speed twice the posted speed limit, or greater than 80 m.p.h.
7. Extremely hazardous maneuvers (i.e., driving against oncoming traffic, failing to stop for red lights) by the violator
8. Numerous vehicles in pursuit
9. Officer excited, not in full control of emotions
10. Existence of special circumstances (i.e., school zones, hospitals, etc.)

NOTATION

The courts have decided that the officer will be judged from the perspective of a reasonable officer on the scene (Graham V. Conner). With this in mind, officers should

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 JOHN C. GYRE

give serious consideration to all of the factors before deciding to initiate a pursuit and continue to evaluate the need to pursue versus terminating the pursuit.

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TOWNSHIP, IOWA

PURSUIT DECISION MATRIX

NATURE OF OFFENSE	LOWER RISK	MODERATE RISK	HIGH RISK
VIOLENT FELONY IMMINENT THREAT	May Pursue. Continue To Assess Risk.	May Pursue. Continue To Assess Risk.	May Pursue. Discontinue If Risks Exceed Known Threat To Public Safety If Capture Is Delayed.
VIOLENT FELONY CRIMES	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
FELONY PROPERTY CRIMES	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
MISDEMEANOR OR TRAFFIC VIOLATIONS THAT ARE SAFETY RELATED-includes all OWIs	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
MINOR INFRACTIONS THAT ARE NOT SAFETY RELATED	DO NOT PURSUE	DO NOT PURSUE	DO NOT PURSUE

Officers must continually assess the nature of the offense against the risk factors. An officer's response must be consistent with the Pursuit Decision Matrix.

- C. Notification - When a motor vehicle pursuit is initiated, it shall be immediately reported to the Emergency Communications Operator by the initiating officer. The initial information will include:
 1. The reason for the pursuit
 2. The location, speed, and direction of travel
 3. The description of the fleeing vehicle, including license plate number.
 4. The number of occupants and description of occupants if observed.
 5. The officer will update the information as it becomes available or changes.

- D. Communication Center Responsibilities - Communications during a pursuit is vital to the safe apprehension of the offender as well as the safety of the officers and bystanders. Emergency communications during pursuits will be conducted according to the established policies and practices of the Joint Emergency Communications Center and currently includes the following:

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 JOINT EMERGENCY COMMUNICATIONS CENTER
 BIRMINGHAM, AL

1. Immediately upon receiving information that an officer is in pursuit, the ECO will advise all other non-emergency radio traffic to move to another channel and give the pursuing officer priority use of Law 1. The ECO will advise the pursuing officer of any pertinent information concerning the area of the pursuit.
2. Notify a watch commander/supervisor of the pursuit in progress.
3. The ECO shall record on the CAD log all the information furnished by the officer during the pursuit.
4. As long as the pursuit is continued, the ECO will manage the pursuit communications by re-broadcasting transmissions of relevance to other units involved.
5. Contact surrounding agencies and advise them of the pursuit. We do not encourage involvement of other agencies in the pursuit other than for perimeter control and assistance in attempts to identify the violator unless specifically requested otherwise.
6. When the pursuit leaves the city limits, or it is reasonably imminent that it will, the ECO will contact the appropriate law enforcement agency with necessary information.
7. As time permits, the ECO will run vehicle and registered owner information and broadcast pertinent information.

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1. A supervisor shall assume control of all pursuits. This can be accomplished through radio communications. Supervisors will monitor all pursuits and approve any special tactic that will be used.
2. In the event the supervisor initiates the pursuit, they should relinquish that position as soon as another unit becomes available and assume control of the pursuit as specified in subparagraph (1) above.
3. The supervisor's foremost considerations shall be officer and bystander safety, methods of identifying the fleeing suspect, tactics to stop the fleeing vehicle, and coordination of all officers.
4. Supervisors shall intervene and correct any misuse of police personnel involved in the pursuit.
5. The supervisor may, at any time, order the termination of the pursuit when, in their judgment, the necessity of apprehension is outweighed by the level of danger created by the pursuit.
6. Supervisors shall also assure that sufficient patrol strength is maintained within the city to handle routine calls for service.
7. The supervisor in charge of the incident shall approve any special tactics to stop the vehicle.

F. Pursuit Tactics

NOTE: Pursuit at high speeds under the best of conditions is an extremely dangerous situation. Any tactic contemplated when high speed is involved, requires advance planning, taking into consideration the factors surrounding the incident at hand. Safety is the foremost consideration. The following are some possible

alternatives to consider when determining methods of stopping the fleeing vehicle.

1. Consider alternatives, through radio communication and the assistance of other police officers. A determination should be made as to whether the offender can be identified and apprehended later.
2. Use fuses or traffic cones to set up an apparent roadblock in advance of the pursued vehicle. Remember to clear the road and select a safe location.
3. Use tire deflation devices to bring vehicles to a controlled stop. Prior to deploying tire deflation devices, the officer should use the police radio to notify others of the pending deployment to include location of deployment.
4. Do not use the spotlight focused on the back window of the pursued vehicle.
5. Stationary roadblocks are prohibited
6. Moving roadblocks are prohibited.
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 - a) Officers operating unmarked vehicles, equipped with visual and audible signaling devices, may engage in pursuits only when the fleeing vehicle presents an immediate threat to persons or property and then only until a marked unit is available to assume the pursuit, at which point the unmarked will withdraw and serve only in a support role.
 - b) Police vehicles without emergency equipment, i.e., visual or audible signaling devices, **SHALL NOT ENGAGE IN PURSUITS** with one exception. In those cases where the fleeing vehicle presents an immediate threat of death or serious injury, they may participate until marked police units arrive.
9. Following the Fleeing Vehicle
 - a) All units will be spaced in such a manner to allow time to react to evasive maneuvers of the fleeing vehicle or another police vehicle.
 - b) Officers will not pursue the fleeing vehicle the wrong way on interstate or controlled access roadways, or one way streets, unless specifically authorized to do so by a supervisory officer.
10. Aid to Outside Agencies
 - a) Whenever units of another law enforcement agency are engaged in a pursuit and request assistance from the Department, the requesting agency shall advise the emergency communications center of the nature of the offense and the description of the fleeing vehicle before a police vehicle from the Department joins in the pursuit. If an outside agency contacts an Iowa City officer directly, requesting assistance in a pursuit, it will be the responding

- officer's responsibility to advise a watch supervisor and communications of the request and the circumstances surrounding it.
- b) The watch commander/supervisor must approve the request before any action is taken.
 - c) No more than two Iowa City Police Vehicles will actively become involved in a pursuit initiated by an outside agency. This DOES NOT preclude other officers from deploying tire deflation devices, blocking intersections or otherwise assisting the outside agency.
 - d) In instances where a vehicle is pursued by two or more vehicles from an outside agency only one Iowa City Police Vehicle may actively become involved in the pursuit. The operator of this vehicle shall communicate the speed, direction of travel and other information to the Iowa City Emergency Communications Center.
11. Firearms
- a) Except under the following circumstances, shooting from or at a moving vehicle is prohibited.
 - (1) When an occupant of the fleeing vehicle is utilizing deadly force against the police officer or other persons.
 - (2) As a last resort to prevent death or serious injury to the officer or other person(s).
 - (3) As a last resort to apprehend a person who has just committed a felony resulting in death or serious injury.
 - b) The discharge of firearms shall not be utilized when the circumstances do not provide a high probability of striking the intended target or when there is a substantial risk to the safety of other persons, including risks of causing vehicle accidents.
12. Number of Pursuit Vehicles
- a) The number of Iowa City Police vehicles actively involved in a pursuit should be limited to two vehicles, a primary unit and a secondary unit. Other officers will be kept informed of the pursuit and should be in a position to assist if the pursuit enters their area of responsibility.
 - b) There will be no caravan of police vehicles attempting to join the pursuit.
 - c) There will be no attempt by officers engaged in the pursuit to pass other units involved in the pursuit unless permission is given by the supervisor in charge of the pursuit.
 - d) Secondary units shall provide backup to the primary unit and may assume the pursuit should the primary unit become disabled. Secondary units should also ensure that communications of pursuit status is maintained.

V. TERMINATION OF PURSUIT

- A. Pursuit shall be terminated under any one of the following reasons:

1. A supervisor or higher authority orders the pursuit terminated.
 2. Upon the determination of the pursuing officer that, the danger to the officers or others in the area outweighs the necessity for immediate apprehension.
 3. The offense is a traffic infraction, misdemeanor or other non-violent felony and the identity of the violator is known.
 4. Visual contact is lost or the distance between the officer and the pursued vehicle is so great that further pursuit is futile.
 5. The pursuing officer believes that the fleeing vehicle is being operated by a juvenile and the offense constitutes a traffic infraction, misdemeanor, or non-violent felony.
 6. When there is an equipment failure involving the emergency lights, siren, radio, brakes, steering or other essential mechanical equipment.
- B. While not necessarily dictating immediate action, serious and continuing consideration should be given to termination of a pursuit under the following conditions:
1. Environmental factors such as rain, fog or darkness substantially increase the danger of the pursuit.
 2. Road conditions are congested by traffic or pedestrians, such as, at rush hour or in the area of any school.
- C. The termination of a pursuit does not prohibit following the pursued vehicle while obeying all traffic laws, or remaining in the area to re-initiate contact if circumstances dictate.

VI. REPORTING

- A. The pursuing officer will forward a written report detailing the pursuit to the Division Commander before completing their tour of duty. The watch supervisor will forward a written report to the Division Commander within 10 days unless an extension is allowed by the Commander of Field Operations. The reports shall include:
1. Evaluation of the circumstances involved.
 2. If the initiating officer followed the required procedures.
 3. Were there other units involved and did they follow procedures?
 4. Did communications perform their responsibilities?
 5. Did supervisors perform their responsibilities?
 6. Was force used to stop the vehicle, i.e. controlled stopping devices?
 7. Were procedures followed regarding termination of pursuits?
- B. The supervisor of the unit initiating the pursuit shall be responsible for submission of a written analysis and critique of the pursuit through the chain of command to the Chief of Police. The report shall include an evaluation of the pursuit referring to the circumstances and adherence to this policy.

- C. A vehicular pursuit is deemed a "use of force", hence a Use of Force report must be completed. The "Supervisory Review" needs only to note that a separate pursuit analysis was completed and list any policy violations.
- D. As a vehicular pursuit is deemed a "use of force", the Department's Use of Force policy and Use of Force continuum apply to vehicular pursuits.
- E. On an annual basis a documented analysis of all pursuits for the past calendar year shall be completed. This report shall be completed by the Sergeant of Planning and Research and be forwarded to the Chief of Police. The analysis is intended to reveal patterns or trends that indicate training needs and/or policy modifications.

VII. TRAINING

Officers shall receive annual training in the use of forcible stopping techniques, i.e. STOP STICK® or any other device/technique authorized by the Chief of Police or designee.

Jody Matherly, Chief of Police

WARNING

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CITY CLERK
DANA DEAN



POLICE VEHICLE PURSUITS

<i>Original Date of Issue</i> February 10, 1999	<i>General Order Number</i> 99-01
<i>Effective Date of Reissue</i> December 18, 2018	<i>Section Code</i> OPS-02
<i>Reevaluation Date</i> December 2019	<i>Amends</i> Previous version of 99-01
<i>C.A.L.E.A.</i> 1.2.7, 1.3.2, 41.2.1, 41.2.2, 41.2.3	<i>Reference</i> (see "INDEX AS:")

INDEX AS:

- Use of Force
- Vehicle Pursuits
- Reports
- Tire Deflation Devices

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I. PURPOSE

It is the purpose of this policy to state the guidelines to be followed during vehicular pursuits.

II. POLICY: The Iowa City Police Department does not allow vehicle pursuits except in extreme circumstances. The initiation of a pursuit is justified only when, in the officer's judgment, the necessity of immediate apprehension outweighs the level of danger to the officer and public created by the pursuit and the pursuit would be allowed by the pursuit matrix contained herein. This evaluation must continue throughout the course of the pursuit by the officer and his/her supervisor. All pursuits will be conducted in strict accordance with section 321.231 of the Code of Iowa and all emergency vehicles will utilize both audible and visual signaling devices when engaged in pursuits.

III. DEFINITIONS

321.231 Authorized emergency vehicles and police bicycles.

1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section.
2. The driver of any authorized emergency vehicle, may:
 - a. Park or stand an authorized emergency vehicle, irrespective of the provisions of this chapter.
 - b. Disregard laws or regulations governing direction of movement for the minimum distance necessary before an alternative route that conforms to the traffic laws and regulations is available.
3. The driver of a fire department vehicle, police vehicle, or ambulance, or a peace officer riding a police bicycle in the line of duty may do any of the following:
 - a. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - b. Exceed the maximum speed limits so long as the driver does not endanger life or property.
4. The exemptions granted to an authorized emergency vehicle under subsection 2 and for a fire department vehicle, police vehicle or ambulance as provided in subsection 3 shall apply only when such vehicle is making use of an audible signaling device meeting the requirements of section 321.433, or a visual signaling device approved by the department except that use of an audible or visual signaling device shall not be required when exercising the exemption granted under subsection 3, paragraph "b" of this section when the vehicle is operated by a peace officer, pursuing a suspected violator of the speed restrictions imposed by or pursuant to this chapter, for the purpose of determining the speed of travel of such suspected violator.
5. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

NOTE Police bicycles shall be operated in accordance with General Order 00-07 Police Cyclist.

The operator of a police bicycle, may, in the line of duty, do any of the following: Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; Exceed the maximum speed limits so long as the driver does not endanger life or property.

Pursuit - For this policy, pursuit means chasing a fleeing suspect who is exceeding the posted speed limit or driving in an evasive or unsafe manner.

Violent Felony Imminent Threat – For this policy, violent felony imminent threat means a person has used or threatened to use deadly force/inflict serious injury on another or an officer reasonably believes that a person would use deadly force/inflict serious injury against any person unless immediately apprehended.

Violent Felony Crimes- For this policy, a violent felony crime is defined as any crime designated as a felony under Iowa law that has as an element of the use, attempted use, or threatened use of physical force against another, or is burglary, arson, or extortion, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

Felony Property Crimes- For this policy, felony property crime means any property felony crime. This definition specifically includes (officers shall not pursue) a bank robbery where only a note was displayed, shoplifting related calls where no weapon was displayed, stolen vehicles, and suspected impaired drivers.

Serious Injury- For this policy serious injury means bodily injury which does any of the following: creates a substantial risk of death, causes serious permanent disfigurement, causes protracted loss or impairment of the function of any bodily member or organ.

IV. PROCEDURES

- A. Initiation: The pursuing officer must carefully consider the safety of persons and property before engaging in a vehicular pursuit. Some of the factors that should be considered when determining whether to initiate, continue or terminate a vehicular pursuit are:
1. Time of day – high speed pursuits occurring during a time when there is a high level of activity (businesses, schools), are normally more hazardous than those occurring during periods of low activity.
 2. Volume of vehicular traffic – pursuits occurring during periods of heavy traffic flow are more hazardous than those occurring at other times.
 3. Location of pursuit – pursuits through residential areas or along streets near or adjacent to schools are normally more hazardous than those in lightly populated areas.
 4. Weather conditions.
 5. Road conditions.
 6. Speed involved.
 7. Nature of the offense – pursuits for persons suspected of involvement in crimes against persons are viewed as more justifiable than those for persons suspected of traffic or other misdemeanor violations or property crimes. However, there shall be no assumption that the commission or suspected commission of a felony constitutes automatic authorization to pursue by vehicle.
 8. The condition of the police vehicle should be considered.
 9. Consideration should be given to the driving skills of the pursuing officer.

10. Consideration should be given to whether the offender can be identified and therefore apprehended by other means.
- B. Officers shall be familiar with and use the following Pursuit Decision Matrix as guidance in determining whether to initiate or continue a pursuit. The Pursuit Decision Matrix is very similar to the Use of Force Continuum as set out in the Department's Use of Force policy. It is a guide designed to assist the officers in their use of discretion and shall be followed when making vehicular pursuit decisions. The degrees of risk associated with vehicular pursuit in specific circumstances are defined as follows:

PURSUIT DECISION MATRIX GUIDES

LOWER RISK

1. Marked vehicles
2. Straight roads, good surfaces, clear line of sight
3. Few intersections
4. Few or no pedestrians
5. Good weather
6. No hazardous maneuvers by violator
7. Speeds at or less than 20 m.p.h. over the posted limit
8. Officer is calm and in control
9. Lack of special circumstances (i.e., school zones, hospitals, etc.)

MODERATE RISK

1. Some intersecting streets (i.e., residential area)
2. Light pedestrian traffic
3. Moderate traffic, little congestion
4. Speeds 20 m.p.h. greater than the posted speed limit
5. Officer generally calm, under control
6. Some hazardous, but not extreme maneuvers (i.e., crossing center line to pass vehicles, sudden lane changes) by the violator.

HIGH RISK

1. Frequent intersecting streets (i.e., a business district)
2. Poor weather, slippery streets, low visibility
3. Blind curves or intersections, narrow streets
4. Numerous pedestrians
5. Heavy, congested traffic
6. Speed twice the posted speed limit, or greater than 80 m.p.h.
7. Extremely hazardous maneuvers (i.e., driving against oncoming traffic, failing to stop for red lights) by the violator
8. Numerous vehicles in pursuit
9. Officer excited, not in full control of emotions
10. Existence of special circumstances (i.e., school zones, hospitals, etc.)

NOTATION

The courts have decided that the officer will be judged from the perspective of a reasonable officer on the scene (Graham V. Conner). With this in mind, officers should

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INVESTIGATION

give serious consideration to all of the factors before deciding to initiate a pursuit and continue to evaluate the need to pursue versus terminating the pursuit.

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CITY CLERK
JIMMY CHYUNG

PURSUIT DECISION MATRIX

NATURE OF OFFENSE	LOWER RISK	MODERATE RISK	HIGH RISK
VIOLENT FELONY IMMINENT THREAT	May Pursue. Continue To Assess Risk.	May Pursue. Continue To Assess Risk.	May Pursue. Discontinue If Risks Exceed Known Threat To Public Safety If Capture Is Delayed.
VIOLENT FELONY CRIMES	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
FELONY PROPERTY CRIMES	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
MISDEMEANOR OR TRAFFIC VIOLATIONS THAT ARE SAFETY RELATED-includes all OWIs	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue	Discontinue <u>OR</u> Do Not Pursue
MINOR INFRACTIONS THAT ARE NOT SAFETY RELATED	DO NOT PURSUE	DO NOT PURSUE	DO NOT PURSUE

Officers must continually assess the nature of the offense against the risk factors. An officer's response must be consistent with the Pursuit Decision Matrix.

- C. Notification - When a motor vehicle pursuit is initiated, it shall be immediately reported to the Emergency Communications Operator by the initiating officer. The initial information will include:
 1. The reason for the pursuit
 2. The location, speed, and direction of travel
 3. The description of the fleeing vehicle, including license plate number.
 4. The number of occupants and description of occupants if observed.
 5. The officer will update the information as it becomes available or changes.

- D. Communication Center Responsibilities - Communications during a pursuit is vital to the safe apprehension of the offender as well as the safety of the officers and bystanders. Emergency communications during pursuits will be conducted according to the established policies and practices of the Joint Emergency Communications Center and currently includes the following:

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 JOINT EMERGENCY COMMUNICATIONS CENTER
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1. Immediately upon receiving information that an officer is in pursuit, the ECO will advise all other non-emergency radio traffic to move to another channel and give the pursuing officer priority use of Law 1. The ECO will advise the pursuing officer of any pertinent information concerning the area of the pursuit.
2. Notify a watch commander/supervisor of the pursuit in progress.
3. The ECO shall record on the CAD log all the information furnished by the officer during the pursuit.
4. As long as the pursuit is continued, the ECO will manage the pursuit communications by re-broadcasting transmissions of relevance to other units involved.
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Jody Matherly, Chief of Police

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CITY CLERK
JAN 17, 2011

Council Present: Cole, Mims, Salih, Teague, Taylor, Thomas, Throgmorton

Staff Present: Fruin, Monroe, Andrew, Dilkes, Fruehling, Matherly, Knoche, Ford, Bockenstedt, Bowers, Rackis, Havel, Hightshoe, Kubly

Others Present: Stewart (UISG)

Proposed CPRB Ordinance Change [IP3]:

Throgmorton/ Okay, folks, we're gonna begin the Iowa City City Council work session for Tuesday, December the 18th, 2018. The first topic is the proposed Community Police Relations Board ordinance change. And before we get into that, I wanna thank Orville and Monique for coming on behalf of the full Board, and to make sure you understand how important we know the Board is, how important the work is, and how much we appreciate the good work that you're doing. So, thanks for coming and...we'll hear how this conversation goes tonight. I'm gonna ask Eleanor to briefly summarize, uh, what'swhat the difference is here with regard to Item 11, which is the main thing we'll be discussing on the proposed ordinance change. Eleanor, could you do that please?

Dilkes/ Sure. I thought....particularly for, um, Bruce's, um, orientation that I'd just (noises on mic) a very...are these (several talking) (noises on mic)

Throgmorton/ (mumbled) I hear it but it's not, there's not much volume.

Salih/ Yes there is not! (noises on mic)

Throgmorton/ (several talking) Try it again, see what happens?

Dilkes/ Hello? (several talking)

Throgmorton/ That's better!

Dilkes/ I'll try and...is that better? Okay! Okay, um, so to kind of orient Bruce a little bit, um, just do a quick overview of the...uh....CPRB. I keep...it's in my mind as PCR. The CPRB process. So essentially the Board was set up to review, um, complaints of police misconduct. So a complaint can be filed with the Board. It's one of a number of places where complaints against the Police Department, um, gets filed. Uh, but it can be filed with the Board. Um, within 90 days of the incident. The....the, uh, complaint is then turned over to the Police Department to do an independent investigation, and....the, um, the Police Department does these investigations like they do any complaint of misconduct, whether that's generated by command staff or whether it's generated....it comes from outside the City. Um, and there's a....a particular process that they have to go through in interviewing the officer, and I kind of explained that a little bit, um, in my memo, and thinking back to when the origins of this Board, I think there were a couple

reasons why Council decided to do it that way. One, um, the notion that, um, the...uh, Police Department is responsible for policing itself and needs to do that initial investigation, and then more logistically, um, the Police Chief, uh, is the only person because he's got disciplinary authority, who has the ability to compel the police officer to talk to him. Um, so that's not something that the, um, the Board is able to do, um, because they're not in a position to provide the officer immunity, um, from criminal prosecution....were the officer to make....to claim his Fifth Amendment rights. Um, so then the...the Police Department does the investigation, um, and the, uh, the Police Chief sends a report to the Board, explaining, um, the findings of the Police Department, and at that point, the Board can decide how...what...what level of review they're going to give that report, and there's a series of, you know, from less intense to more intense. The first one is just on the record, reviewing the information that has been provided to them by the Police Chief. Um, and it goes all the way up to hiring an independent investigator to do their own investigation, before they issue their conclusions, um, on...on the Police Chief's report. So with that background, um, the only....staff, as you saw, supported the changes that were, uh, proposed by the CPRB. The only one that we had some concern about was the...um, there were a couple suggestions about what to do if....if the, um, Police Chief and the PCRB don't reach the same conclu....or CPRB don't reach the same conclusion. Um, and one of 'em is....is that they sit down in closed session, where the Board holds most of these conversations, and have a discussion about it, and the Police Chief can give you his thoughts on that, but he was very supportive of that because at least my sense in looking at these reports has been that it's....it's often a sense of just different perspectives on the same situation, not so much that there's a difference in the fact findings. Um, so we agreed with that, um, proposal. But then the Board suggested that if there's a disagreement between the Police Chief and the, um, CPRB that at that point then the Board would have the option of having an independent investigator review the case. Um, and the staff....stated why we didn't think that was....that made a lot of sense, both from an investigative perspective, because at that point...you know, the....the facts are....have been (laughs) revealed and that's usually what...you wanna do those kind of investigations before everybody's aware of what everybody else is saying. Um, also the Board has the ability to do, um, a....hire an independent investigator....at the earlier sta....at an earlier stage in the game when that type of investigation would seem more appropriate. Um, and then I....I tried to explain as briefly as I could about, again, how the, an independent investigator is not going to have the same access to the police officer as the Police Chief does....because of those Fifth Amendment and compelling testimony principles, and, um....uh....I think the Police Chief can add more to that if he wants to, in terms of....what he thinks the best mechanism is for....for ferreting out those differences in the conclusions reached by the CPRB and the Police Chief.

Throgmorton/ If you folks concur...let me just see if this is....suggestion works. It might be good to hear from the Chief, and also hear from one or...of the Board Members, I don't know, Orville or Monique or...to...to see if we can, if there's anything you wanna add or modify in terms of...what Eleanor just described. Chief, could you, uh, add anything you want to add or help us to understand.

Matherly/ Absolutely! Jody Matherly, Police Chief. Um, you know, the CPRB is such an important mechanism. Uh, we're one of the only ones in the state that even has such a civilian oversight board. Um (clears throat) you know, as...as we look at police reform the last few years, these types of...of committees, these commissions, have been critical and instrumental in the successes of police reform. It certainly adds a...a layer of...of, um, a lens from the public and the community's point of view, and a sense of transparency, but it also builds confidence. So folks...that maybe wouldn't ordinarily complain about our actions or...or something that occurred are now more comfortable taking that action. So I applaud the City for havin' this Board. Um, I will tell you I had folks, when I first started here, said, you know, I don't know about a CPRB. That might be tough to deal with. You know, we have state ombudsmen. I had an ombudsman at one of my past agencies and they're the same type of mechanism, and they're a good thing. So the...the, uh, the process has been good. As far as fine-tuning the process, I think it was needed to be able to have a conversation to talk about, you know, why it is the decision I made, what our training dictates, what our policies say, what's the latest training we have, and the procedures and...and um, the court cases and things that are very dynamic in our job and this is why we have CALEA, our accreditation process because things are always evolving in our jobs because of these...these difference... different things that occur, um, in rulings and how we need to conduct ourselves. So, being able to sit down and explain that and why we're taking the action that we did, and why we had the conclusion that we did is critical. That being said, um, they may very well shed light on somethin' that I missed. I'm a human being. So I'm not too, um (laughs) too big to say that, you know, uh, you know what, I like your point of view and I understand that and let me take another look at this. So I can certainly do that if needed, um, but we go through several layers of...of process when we do this, from our City Attorney's office to our...our command staff, starting with the officer's immediate supervisor. So this has a lot of set of eyes on it, um, when...when we do this, and so I want everybody to have confidence that it's not just me that comes to this conclusion. It's...it's many, many people in many arenas for the City, uh, that have the...the interest of the City, the complainant, and the officer all in mind for due process and to reach the right conclusion. So...um...that's about all I've got. Are there any questions for me or any comments?

Throgmorton/ Maybe we should hear from Orville and/or Monique, and...and then Council Members can ask any of the three people questions.

Matherly/ Okay. Thank you!

Throgmorton/ All right.

Galpin/ We thank you all for, um, for listening to this proposal that we have, and um, you know, we...we're fortunate to have a great relationship with the Chief and, uh, you know, police come to our meetings and we...we just wanna make some oversight for, you know, there's going to be personal...personnel changes at some point on our Board. They'll...there might be personnel change, um, you know, among the police (mumbled) staff, so we just wanna make sure that these, um, oversights and protections are put into

place for...for the future, just in case there is ever a time when there isn't such a great relationship. So our main concerns are just that if we have a difference of opinion with the Chief that there are some protections so that, you know, if there are any necessary, um, you know, changes, if we do need to bring someone in, that you know...that we're able to do that. So did you wanna (mumbled)

Townsend/ And basically I think, um, you know, we...we're fortunate right now, I mean, the concerns that I would have...are not about the Police Chief we have now. But I think basically you appoint an advisory board, and I think it's important that you utilize that board and get feedback from that board so that it will allow you to make better informed decisions. Now havin' one of you guys come to the meeting that could be not too good because it kind of pares your thinkin' but one of the things I was...I would recommend that we do is that the, uh, Council appoint two Council Members to meet with the...with ...with our Board....twice a year....because when I first came on the Board, you know, there's a lot of things that I saw that I had a lot of concerns about....and, you know, they just...went un...with no attention, so I would say basically it's important that you not only appoint us but you also keep a relationship with us, so that we can give you feedback that helps you to make informed choices and decisions. So I think meetin' with us twice a year, uh, have two appointees to meet with us twice a year for feedback, would be a very positive thing and hopefully that (mumbled) as somethin' that'd be on-goin'. Uh, sometimes I kinda feel like our Board is a rubber stamp, because, you know, we meet, we look at the tapes and things and we make our recommendation. We write our report, and we never hear anything. I'm sure that some place in a final report at the end of the year, that information's there, but another thing I...I would like to see is that when we give our written recommendation to the Board, if possible could you give us some kind of written feedback to let us know what was the outcome of that. Not necessary that we gonna be upset if you don't agree with us, but you know, we just like to know what, you know, what...what's goin' on, you know, and maybe with some indication as to what was the ra...rationale, if it goes against our recommendation. I mean....anything you can do along the way that basically would help us to feel like we're actually....doin' somethin', it would really help, but right now, you know, we meet and we write a report, but you know, it's like if the Chief.....agrees with the officer and we disagree, um, the way it is now it just seems like we....we just go through a motion. So it would be really nice if we can....have a better system where it seems like we're workin' closer together and that all parties involved are...are productive and....and, you know, actually achievin' somethin'.

Throgmorton/ Okay, hang tight and let's see if there are questions for you, Jody, or Eleanor.

Cole/ I have a question relating to the early stage outside investigator. It's my understanding there is a process to get an outside investigator early on, is that...is that correct? Um, why would that not be an adequate remedy at the earliest stage? As I understand that, that would be someone from the outside, to be able to investigate it as opposed to afterwards. And the second related question is, is do you have the authority now to write a dissenting report, um, once the Police Chief makes the recommendation, um, if you... if you disagree with it.

Galpin/ (mumbled) not sure if there's any recourse if we do have, you know, difference, um, of opinion. So I think that's kind of one of our main concerns, why we were interested in an investigator afterward, because sometimes it's like...I know we don't have the...the power as a body, as a disciplining, uh, body, but it's to make sure that there's some sort of, um, process in place when we have a disagreement that is just...doesn't go into the ether, that there's some sort of recourse.

Townsend/ Yeah, and...and you know, we do have the right, like...we look at the Chief's report and we don't agree with it, then we can, you know, request an investigator to...to look at it. We have that authority right now, you know. And...and I just like to say, you know, it's like as the police review board, uh, everybody would just pounce and say, wow, you know, it's like they wanna pounce on the police, uh, chief and the staff. That's not the case. I...I think we're in a good place right now. What we're askin' you to do is consider change, and I can't think of a better time to make change than right now, while we do have a police chief that's basically doin' a good job, that's actually interested in the community, and...and basically doin' things to, you know, solidify the situation as opposed for division. So this is a good time for the Council to, you know, put some changes in because we've got a...a system and a police chief that's gonna support it.

Salih/ I have a question for Eleanor. You said when they hire an independent investigation.... Investigator, uh...say if he said yeah, this complaint is sustain after he did his investigation. What gonna happen?

Dilkes/ Well the...the Board has the ability to hire the independent investigator to determine what the Board's conclusion is. They don't have to do that. They can do just review the information provided by the...by the Police...Department, but if...if...if they for some reason think that they need a more thorough investigation or they need a more independent investigation, they have the right to request that (both talking)

Salih/ ...instead of like accepting the Police Chief report, they would hire somebody else to investigate it and...

Dilkes/ It's...it's not a question of accepting the Police Chief. They review the Police Chief's report and then they make a public report, as you know, to the Council (both talking) about what their conclusions are, and the question is what tools do they use...to help them reach that conclusion, and there's a whole list of tools, some is....they can do their own investigation; they can hire an independent investigator; um....they can subpoena witnesses; etc. Um.....and so I think one of the concerns of staff is that ability to hire an independent investigator is already present and the time to do that it seems is early on, because the point of the investigation is to ferret out the facts, is to find out what the facts are. It's not to resolve a dispute between the Police Chief and the Board.

Townsend/ (both talking) Eleanor (mumbled) you know, we've reviewed a lot of cases, but we haven't hired an outside investigator, and I think the reason for that is we haven't had a case that has a lot of information that's very strong and....and devastating, where a

person was actually, you know, really treated unfairly. Most of the cases we look at, you know, they're kinda small, I mean, they're important, but they're...I don't think they're important enough for us to go and hire an investigator because it's just not gonna be a lot there. But now in the future if we ran across a case where it was blatant, then we would probably hire an investigator before we submitted our report to the Council.

Dilkes/ Yeah, and....and (both talking)

Thomas/ So prior Commissions have used the....their own investigator, but this current (both talking)

Dilkes/ I don't recall the....the CPRB ever us....hiring an independent investigator and I think (both talking)

Salih/ (mumbled)

Dilkes/ ...Orville says, it....it makes a lot of sense to me.

Townsend/ A lot of....a lot of the cases that, you know, from my...my perspective on it, a lot of the cases that we review, you know, m....my greatest concern was satisfied simply by....uh, makin' a recommendation to the Chief that maybe trainin' is needed to, uh, improve this. You know, one of the things that I run across was, you know, I think an officer basically.....kinda responded to a citizen, but he was responding with an attitude of...a personal attitude as opposed to the officer and a professional attitude. And that could be correct with training. So I think a lot of that is what we do. We haven't had anything that's really serious and blatant.

Dilkes/ I...I think the question is....what is the best remedy when there is a disagreement between the Police Chief and the Board, and in our mind, that's conversation between the Police Chief and the Board, and resolution if possible, and....change for down the road of how they look at things that, is remedy for that, not....a further investigation of the facts.

Salih/ I...as a formal police review board like (unable to understand) I...when I was a, uh, I really feel, uh, powerless. You know, even though this is as the Police Chief mentioned, this is really important committee, you know, and it is unique. It is...it is the only one of its kind, I guess, in the whole state, but think about it, we have three avenue for a person to file....to file a complaint. He can file it with the Police Department. Police review and the Human...the Human Right. If there is three....I can choose anyone! But if the Police Chief would say this complaint is sustain and the Police, uh, Review Board was saying, oh, we review it, it's not sustain. What gonna happen after that? Nothing was happening! (unable to understand) sustain a complain, and the Police Chief was saying this is not sustained, but nothing happen! Sustain a complaint, just put it on the file, come to the Council, the Council have not done anything about it, and that's it! This is what give me...why should have a Police Review Board if there is no avenue for the Police Chief, for the person to file, what the difference between the person file with the Police Chief and he would sustain it...not sustain it, and with the police report, and the

Police Chief will come and not sustain it and those will come and sustain it, and nothing gonna happen! The Police Review Board, to tell you the truth, I'm sorry you been doing a good job, but it's powerless. When it come to a sustain of complaint, and the Police Chief is not sustaining it. That's why I think this, uh, committee have to have the power and now it is very good relationship between the Police Chief. Our Police Chief is awesome. I understand that you really drive this community, like you made a lot progress in making justice in this community. But, as she said, we never know who's coming next. We need....and we never know who's Council coming next. We need to have something here.

Townsend/ I...I think we need to look at some system realities. I mean when you look at....the boundaries that we're functioning within is....it's unique but it's....it's different. You've got the Police Chief who basically is lookin' at it from a view of what he has to deal with, the regulations and things like that, the union. You've got the Police Review Board. We look at it because we are individuals in the community, and I've been here since 1962 and I'm gonna tell ya, I'm really pushin' to get as many changes....as I can in....in....in the, uh, written statements because even though I'm very comfortable and happy with what we have now, I've lived through nightmares in terms of how I've been treated by a policeman and nothin' happened, and even though things are okay now, I wanna make sure that we put everything in place we can for the future so that if things aren't right, we have some written guidelines that will basically give us some boundaries that people are supposed to at least function within.

Teague/ So, Eleanor, I know that you mentioned that, um, if there's disagreement, I mean, that's the question, when there's disagreement. So what happens – there's disagreement. It comes to the Council and it comes to the Council for what?

Dilkes/ It's a public report that goes to the Council, and....and then (both talking)

Teague/ ...just accept it or (both talking)

Dilkes/ ...the Council takes it from there is up to the Council.

Salih/is part of the consent agenda. One vote. We never even look at it.

Mims/ We can always pull it out!

Throgmorton/ (both talking)

Mims/ You know that, Maz.

Throgmorton/ We can pull it out.

Salih/ Yeah, I know you can, but we haven't done this and I don't see....when I sustain a complaint on the....like when I was on the Police Review Board, we sustain a complaint

and it come to the Council without even the Council talk about it, and this is last year, you guys been here!

Throgmorton/ Let me tell you what my concern is, and I'm curious about how each...each of the three parties (laughs) reacts. I remember when Eric Shaw was shot and killed...by a police officer. It was 1996 and that's the reason the CPRB exists, because that event happened. And...public, many members of the public did not trust the process that unfolded, uh, with regard to that particular event. I'm not claimin' anything beyond that, but many people did not trust the process. And then I think about a worst-case scenario, and when I think about worst-case scenario, in Iowa City, it's a Trayvon Martin-type thing or it's a Michael Brown-type thing. A police officer kills, accidentally or whatever, kills some member of the community and then there's investigation and the question becomes will the public trust the results of the investigation. So what I'm wondering, and I ask...really ask Chief Matherly and Eleanor this question, but...in a sense it goes to y'all too, if an event like that happened, Chief, what kind of process would you want to know is in place, ahead of time, so that the public will be able to trust the outcome of investigations?

Matherly/ So during an event like you're talking about, where it's a use of force, lethal use of force, there's...two processes that would be goin'. I...I usually say simultaneously but truly the internal process lags behind the criminal process. So the first thing we would do with somethin' like that is bring in an outside agency, generally the DCI, to say 'you investigate this; you're a third-party; you take a look at it,' so even on appearance, uh, doesn't...doesn't look like we're policing our own. That's just good business in somethin' that serious. Um, the...where we're, you know, where there could be criminal charges. So we're not arresting our own. Um, not that we couldn't arrest our own, but it's just a cleaner process. Certainly if the officer's vindicated and it's a...it's a unfounded situation where the...the force was justified, that can not set well, uh, with folks, even if, you know, even if it's justified. Sometimes it's just not pretty! Um, behind that we then do the internal investigation. Now that may be through the CPRB. It may be through like, uh, Mazahir said, an...an internal process where somebody made the complaint with us. In that case we would use...do it anyway, even without somebody complainin', because it's a use of force that's...that's of such a nature that we need to take an internal review of that. So we would be on auto-pilot to do that. But we ride behind the criminal investigation for many legal and logistical reasons, but that takes priority and then we do ours. The officer can plead the Fifth Amendment on the statement to DCI, in our criminal investigation, but he'd have to talk to me under Garrity for internal investigation. So I may very well know more about the proc...or the incident than the DCI does as far as the officer who's suspected of...or you know, who had to commit this act. Um, but I can't use that Garrity statement internally on a criminal nature. So that's why we stay behind it, if that makes sense. So...you know, there are checks and balances. Um, there has to be a level of trust to some extent on the internal side to say, you know, did we do this right? End of the day, my job description says I don't only plan and coordinate the Police Department, but I have to evaluate it. I have to, uh, review performance, and I have to make sure that we're...and I say 'we,' the officers including myself, are abiding by all the rules, literally hundreds (laughs) if not thousands of rules

that we have. That's my job! And if I don't do that appropriately, I....I don't....I don't like to hear that the Council's powerless. You guys have all the power in the world to your City Manager to take care of business with me if I'm not doin' my job, if it's recognized and you find out that this isn't....this isn't, we're seeing things and it shouldn't be happening and you're not doing anything about it, I've got to answer to somebody. My job description demands that. That's why I was hired. So I don't want, you know, to anybody feel like they're rubber stamped, but I want 'em to feel like the process is in place. Uh, there's....thousands of police departments out there. Uh, we're an accredited agency cause we do things right. We have checks and balances in place. This particular committee is more involved than, since I've been here, on keeping a good eye on our policy – why'd you make this change? They just asked for one of my investigators to come in last week, last meeting, and explain one of the policies. Said, hey, can you have him come in and talk? We're very interested in why that is. And so we did that. I think it was very good on everybody's part that they had a full understanding and took the time to do that. So those processes are getting much, much better. Um....there's work to do! But I....but I think....I think there's a process in place without violating peace officer Bill of Rights, Garrity, you know, Latimer, all these... all these, this case law that has to do with due process and labor and union contracts that we still have a set of eyes on this that is still made public and that they can say 'we disagree,' and somebody might want to take a look at this, and the boss (laughs) sits right here to my left, on your right, uh, that has the power to absolutely....call me in and talk to me about it. And so there....there is somethin' that can be done. Don't anybody feel powerless on processes. This is simply to bring it in a transparent manner to the public so those decisions can be made in a transparent way.

Cole/ To Mazahir's point, though, what I'm wondering is, we get it on the consent agenda. We have essentially two points of view – your view and then the Board's view.

Matherly/ Uh huh!

Cole/ It comes before us, um....what is the remedy that we have in that context? What do we do, I mean because I think to your point, you know, there's this sort of principle (mumbled) I have a right without a remedy, um, if it comes before us, what are we authorized to do? I mean we can't sanction the officer, can we? Um, we can't....that would be probably part of the labor contract. So what...what can we actually do (both talking) talking about a remedy.

Dilkes/ ...authority, but you...well number one you can have a discussion about it!

Cole/ Okay.

Dilkes/ Um, you know, I mean I think...you can ta...talk about what the report says. You can ask the City Manager and the Police Chief questions about...why did you see it this way and why did the CPRB see it this way and...and frankly if they had had a conversation about it, that would be a helpful thing for you to know, and so while you don't have

disciplinary authority, you certainly have the authority to....to ask for a policy review or a policy change or....those kinds of things.

Matherly/ And if it's an egregious act, again, we'll have that criminal investigation goin' as well, likely by a third-party if it's truly a use of force where, you know, fatality or somethin' like that, a....a police shooting, police-involved shooting.

Cole/ What I'm wondering too, and maybe this is an Eleanor question, um, I know for example, let's say for example a City Council Member violated a City ordinance, I assume someone else would prosecute that, right? I mean is there a process in place where if we need to appoint an outside entity, like the County Attorney's Office, to do an investigation or another entity? I know like for example if....if they get in trouble they have another sister county attorney's office investigate that. Is....is there that sort of process in place, um, in....in....in our city, that if there was a disagreement (mumbled) they go to an outside entity to conduct an internal review?

Dilkes/ Yeah...well, that's happened before at the human...with human rights complaints.

Cole/ Okay.

Dilkes/ For instance, if we have a human rights complaint that's against a City employee or officer, we transfer it to the...to the State. Um, there was a time when, um, gender identity was not part of the State code.

Cole/ Okay.

Dilkes/ And so if we got a gender identity complaint against....one of our employees, um, then we would have to hire an outside investigator. So it doesn't happen very often but we're certainly sensitive to it.

Matherly/ And if it's low level we certainly could ask an outside....the Sheriff's Office for example, uh, if it's, you know, if it's a City Council person, it's a local ordinance, City ordinance thing where needs further investigation, we....we can call on mutual aid to say....you know, these are our bosses. Can you take a look (laughs) at this, so there's an unbiased lens looking at that. That's always possible, and I've done that before in the past.

Throgmorton/ So I'm not aware of any situations, at least in the last seven years, in which the CPRB has asked us....has submitted a....a report that differs from the Chief's, and then asked us to look into it more carefully, which is pretty much what you were just pointing to as a....a possible, uh, approach in the case there's a conflict. So...maybe that's what we need, is for the Board to know that it has the right to explicitly ask us as a full Council to listen to both the Chief and the CPRB, and to try to understand the differing recommendations and then us make some kind of judgment about how to proceed. I...I don't know about how the law works (several talking)

Dilkes/ You could certainly put something formally in place. It kind of surprises me that that doesn't already exist. You get them in your packets, you read them (both talking)

Throgmorton/ Yeah, but I mean when the...to have the Board explicitly ask us to convene this kind of joint discussion, instead of just saying 'well we disagree with the Chief.' There you are!

Dilkes/ Well if these changes are made, the...the Police Chief and the Board would have already had a discussion.

Teague/ But it could still differ at the end of...at the end of that discussion. It could still (both talking)

Dilkes/ Sure! They can make an explicit request. They can do...do all of that.

Teague/ I did ask staff to submit to me, within the past 10 years, um, how many, um, allegations, you know, were in disagreement, um, and there were three within the past 10 years. So I did review those, um, but again I think, you know, as the Mayor was just saying, if there's a way that, um.....when that happens, when it comes to Council in the consent, you know, calendar or whatever, that it is pulled and that it is somethin' that is specifically discussed. I guess my question at that point is, when it comes to Council, aren't we just approvinn' the minutes? Aren't we...we're not approvinn' the decisions.

Throgmorton/ That's right, on the consent calendar when it happens that way, yes.

Teague/ So we're not makin'so we're...I mean, who makes the final decision is the question. (both talking)

Fruin/ You still (both talking)

Teague/ ...the Chief? (both talking)

Fruin/ ...a decision on the consent, when you accept it you're....you're accepting the report. I think just listening to the conversation, probably the first step is just for us as staff not to place it on the consent agenda any more. If....if a conversation is what is desired, uh, we should....we should put that on the regular agenda and that forces you to have a...have a conversation, and we'd be happy to do that. Um, the other thing I just want to point out is, those reports are not just beneficial to the public and to the Council, but they're beneficial to me. As the Chief said, I have the responsibility of overseein' the Police Department and when there's...when there are those disagreements, I sit down with the Police Chief and we....we talk through them. Now I usually know a little bit about the case, particularly these past few years I've been participating in the officer interviews, uh, but we sit down and we talk about that disagreement, and those discussions could lead to things that....that you or others in the community may not know about. It could be an emphasis on more training in a particular area, um, or a....a, maybe I'll ask for a policy

review, uh, for items that I notice. So just wanna point that out, that those reports are, again, beneficial to....to the City Manager's office.

Townsend/ Can I make a statement? Uh, number 11, you know, we....we felt that...you know, that's somethin' to guarantee that we're doin' everything that we can to....you know, make sure that the public is taken care of. You know, I've looked at that and...the more I look at it I realize that it's kind of a double-edged sword. You know, it will give us what we want in terms of protectin' the public, but it kinda puts some....puts you on real thin ice with the City in terms of all kinds of legalities and everything else. We don't wanna do that. You know. We've had good....good discussion here and you know, again, I would just really encourage ya to put in the ordinance, you know, if....if we can have it so that the Council not only appoints the Board, but you're workin' with us. You know, we can solve a lot of these problems without, you know, discussion like this. That's why I feel that it'd be very healthy if we had a couple liaisons from the City Council, that met with the Board twice a year. That's when we could express concerns and it could be brought back to you guys and things could be changed and stuff like that. I think that would be a beginning.

Mims/ (several talking) When I look at....when I look at what, uh, the CPRB has asked for and look at the staff recommendations, I've....tried to read through these one to one, two to two, etc., to really kind of go through the detail. And...um, and so when I've looked at these, I didn't see any problems with the first 10, and staff didn't either, and obviously a number of them were just renumbering of paragraphs once some other, uh, changes were made. Um, when I get to 11 and I....and I read through what the CPRB has asked for, um, and before I even....when I read this a few months ago, um, one of the things that first popped up in my mind is....was the concern and this came from staff as well, the idea of doing an independent investigation, after the Board has issued a public report. To me....that....that does...that's not logical. Um, just from the standpoint, I....I would hope that the Board would want to make sure that they have all of the facts, um, in front of them before they issued any kind of public report. So if there's any hesitancy on the Board's part, that...of whether or not they have all the facts, that they would ask for that independent investigator upfront, as the Board is currently allowed to. So that, you know, before that...that report comes out public that you have....that you're sure that you have all the facts, that if there's anything that the Police Chief has provided you in his report, that you're not comfortable with or questioning whether it's complete or anything else, that the Board would in fact say, wait a minute, we want...we need to stop a second and we need to get an independent investigator and make sure we have all the facts. Since the Board hasn't ever done that, I'm....I'm making the assumption that the Board has been comfortable that they do have all the facts in front of them. Um, and certainly now with the body cams, I would hope that that has facilitated, um, having a lot of those facts in front of you. So....so I was really concerned, because I think once....you get the public report out there....it almost looks like you're putting, you know, the horse before the...the cart before the horse, in terms of issuing a report and then saying, oh wait a minute, now we need to go get some facts, or get some more facts. So....so that was...was my concern there. Um....there were certain other issues in there that I particularly had, um, about the inde....independent investigator commenting, um, in terms of

discipline. I'm not sure that any independent investigator, if they're even in an initial stage, if they are the appropriate person to be talking about discipline. To me that independent investigator is to get the facts, so the Board, you know, can make their... their determination of whether it was sustained or not. Um, I'm not sure on a legal or policy aspect....I.....I think that....I think that almost comes back almost on a political standpoint. If....and Eleanor would...and the Police Chief and Geoff would have to kind of address this as, you know, who knows....when you get into personnel issues, who knows what was done and what, uh....what ramifications there were against that particular officer, if those charges were sustained. And so, you know, looking at what was done, and I...probably that comes back to the City Manager's lap in terms of, you know, knowing what that...what was done and whether or not he feels that what the Chief did was appropriate, uh, because that's protected under State law as....am I correct in that, Eleanor, in terms of any, um.....what's the word I'm (mumbled) any discipline that is.....is.....required or is....any discipline that the Chief might put forth on an officer is never going to become public. It is....

Dilkes/ It could if there's an appeal by the police officer to the Civil Service Commission.

Mims/ Okay. But unless that happened it would not become public, is that correct? Or at least the City would not be releasing that information, is that a fair (both talking)

Dilkes/ We would not....there is some case law that suggests that in some circumstances the public interests might trump the personnel privacy issues.

Mims/ Okay. So without spending a whole lot more time on this, I am...very comfortable with everything that the CPRB has asked for, except number 11, and I would also support what the, uh, staff has recommended in terms of adding, um, taking the City Manager out of all those meetings, but certainly making the City Manager available if the CPRB were to request (mumbled)

Townsend/ Susan, I...I hear what you're sayin' and in terms of the system and legalities, it'd make a lot of sense, but can you share with me, can you tell me how do we handle it when there's a situation, a chronic situation, and a majority of your Police Review Board feel that a citizen has been treated extremely unfair, even after the City Council has looked at the material and disagreed with the Police Chief.

Mims/ I think in those cases what needs to happen is what has not happened is....for the Board to maybe specifically ask us to discuss it. Um, if....if you feel like the Council has been burying it in the consent agenda, as Geoff said, one quick and easy way is to take it out of the consent agenda, and for....and then at that point if it's not on the consent agenda, for the Board Members to come to the meeting at which it is on our agenda and we always allow the public to speak on any agenda item that is....that is on, and so that way basically to force the Council, whether it's this Council or a Council in five years or 10 years, to actually publicly engage in a conversation about that particular report, and why you as Board Members feel that....you know, your decision and the Chief's decision don't jive, and I would hope in adding that piece of having the Board and the Chief sit

down together when there is a disagreement on whether the complain is sustained or not, I'm hoping...I would hope that we would have even fewer of those in the future.

Townsend/ Okay, that like I say, we...we're not gonna come to an agreement with this because, you know, I know what can happen. I know what has happened. You know, and basically I suggest that you leave the City Manager in on all the meetings, because when we have a negative situation, and you gotta remember – one of the mistake people make is when they make a decision, a lot of times they make it on how they feel about somethin'. You know, it's like you guys, you may be doin' a good job. You may really wanna see positive things happening, but we haven't always had a City Council that's positive like this. We haven't always had a Police Chief that's positive like this, and I just want you guys to think about that. Don't think about how you feel about it. Try to think of what your citizens are goin' through.

Salih/ Also I just wanna say that...I don't think, and maybe you can correct me, Eleanor. Can they come out and talk about this public here? I don't think so, because if I wanna tell you why I disagree with the Police Chief, I have to tell you the story. I have to tell you what did I see on the camera that made me change my mind, what did I hear, what, you know, all those things, and I...I don't think we can talk about case public like this, because all those like confidential material. Uh, I don't know, here's...I think the question is simple. Maybe we don't need to take the option of hiring outside investigator. I can agree with you for that, but what have we....what can we do if those two people did not agree? You know, what...what the recommendation? If you don't like the independent investigation, okay, take it away and give us a solution. I guess those people they need a solution so they can see that they doing really good job by coming every like, every month and look at all those complaints and look all the videos, hear all the audios, it take a lot time to go through those and after that come and say this complaint is sustained and the Police Chief said it's not sustained. I'm done! What can they do? That's the question.

Cole/ If there were one of these big cases, could they...presumably couldn't they refer it to like the DCI, if you had one of these major cases, could they refer it to an outside entity, um, or would there be any remedy that they would have, and I think the other (both talking)

Dilkes/ They meaning the CPRB?

Cole/ CPRB, yes.

Dilkes/ I...the DCI does criminal investigations. I don't think they would do a (both talking)

Cole/ Is there any other State entity that they could review it too, uh, certified agency for officers or any other outside entity that would not be us?

Dilkes/ I would, I mean there....there are independent investigators that just do that for a living. That's kind of what is envisioned, I think, in the....in the....but I...I think the question is – it's not that....okay, you have a disagreement between the Police Chief and the CPRB

as to....a certain case. It's not that....we think they're....that staff is saying there shouldn't be a discussion about that, a conversation about that, a community highlight of that, a....putting it on the separate agenda. Staff just doesn't think that the investigation at that stage is a remedy for that problem.

Mims/ Investigation should come at the beginning (both talking)

Dilkes/don't understand, that's what I don't get is...the facts are out there, it's not that...it's not usually that the Police Chief and the CPRB disagree on the facts. They disagree on how they (both talking)

Salih/ (mumbled) (both talking)

Dilkes/ ...see those facts and how they....and those are two good, I mean....different (both talking)

Throgmorton/ So, Eleanor, go back to the point Mazahir made. To what extent can we, could we as a Council talk about....a particular issue during a Council meeting where we have a sustained, not sustained kind of conflict between, uh, the Department and....

Dilkes/ The Board puts the....puts a summary of the facts in their report.

Taylor/ We cur...currently when we get that it's the, the meeting minutes and it doesn't have names or any sort of personal information but kind of in regards to that, Eleanor....could we call for, would it be appropriate to call for a close session if....if it was personal information that....that needed to be discussed and....and would it be between the CPRB and the Council?

Dilkes/ You don't have disciplinary authority over the officer. And that's why you go into closed session. So probably not.

Taylor/ Okay.

Dilkes/ You have disciplinary authority over the City Manager if you thought that somehow the City Manager had mishandled this particular situation, you could go into closed session and talk about that.

Townsend/ Well I think one thing, you know (mumbled) and maybe I'm missin' somethin', but when the Board, when we....you know, send our report to the City Council, we don't hear anything back! You know, so you talkin' about gettin' an investigator, I mean, and this is what I mean about us....personally I feel like a rubber stamp. I mean you know we go through all the problem, or trouble, of reviewin' the tapes, gettin' all the information, then we meet and we discuss it. We set the level. We discuss it. And then we finally, you know, come to an agreement. We write the report and we send it to the City Council! Now basically....uh, maybe I'm wrong but we don't hear anything back, you know.

Dilkes/ And what I'm saying, I understand that perspective. I'm just saying that I think the remedy for that is not an investigation. It's to...call it out as a separate agenda item, as Geoff has suggested, not just....do you understand how the consent calendar works? So when they say the consent calendar, it's just a bunch of kind of routine items, and because this is an acceptance of a report, that's where it has landed in the past (both talking)

Townsend/ ...and I'm sayin' that we can't really....say we wanna get an investigation, that we don't know what the final outcome of the Council's decision on it.

Mims/ But....but to me an investigation is to get the facts! And you should have, the Board should have the facts before they...come to a conclusion and write a report. I...I guess I'm on the same page with Eleanor. I don't see what an investigation is gonna do after you already have the facts.

Townsend/ That's a double-edged sword that I was talkin' about, that's why I say I'm willin' to back off on that but I do (both talking)

Mims/ But you have....you have the Police Chief's report before you give your report. So you...you know what his conclusion is. And so....if you've....watched the body cam and you've....and any other information and you've read the...and read the....the Chief's report....and you have any question about that, then.....it would seem to me that that is the time for the Board to request that outside investigator.....is before you issue a report! (several talking)

Salih/ I don't know but I'm sorry all (unable to understand) if Suzanne really get what you asking for. (unable to understand) receive the....the report from the Police Chief. They want and they...investigating themselves and they find out that....they don't agree with the Police Chief.

Mims/ Then hire an investigator, before they issue their report.

Salih/ But....what you mean, that's what they asking for, to hire (both talking)

Mims/ No, they're asking for it after they (both talking) after they already issue the report.

Salih/ That's what they told you! They find out....they disagree with, and they have the...they report that they disagree!

Mims/ No. How can you disagree if you don't have all the facts in front of you?

Salih/ No, they are not asking for....correct me if I'm wrong, you are not asking for the investigation because you don't have all the facts. You have all the fact, you found out this complaint is sustain, but because you disagree with the Police, you need somebody

independent who like neutral person to investigate this and to see if he come up with the information, with the Police Chief or with them, so they can (both talking)

Mims/ But what is the investigator doing if...if you...if you say that everybody already has the facts, then what is that investigator doing (both talking)

Salih/ Right, I'm with you until here. Okay, everybody have the fact. What (unable to understand) They saying this sustain, and he saying it not sustained. What next, and I am as a citizen who file a complaint with the Police Review, what I'm getting? What I'm getting?

Mims/ But what is the investigator doing, just giving a third perspective?

Salih/ Sure! Just don't bring the investigator then. Let us just assume we are not asking, they are not asking for that.

Throgmorton/ Could...could the City Council request a (both talking)

Salih/ Can we do that?

Throgmorton/ A...a follow up investigation, in other words if we pull...an item out of the consent calendar because there's been this non...not sustained kinda finding and we discuss it, could we then decide that we need to hire as...an independent investigator because we think there's something about the situation that requires that kind of additional review?

Mims/ But my...my question still comes back to the fact, what are you asking an investigator to do?

Throgmorton/ I don't know because (both talking)

Mims/ Let me just finish, please, because typ...when I think of an outside investigator, when you say investigate, an investigator is looking for information and facts to...to help people make a decision. If the Board and the Chief agree on the facts, but have a different perspective, okay, we can all see the same set of facts and have different opinions or perspectives about what those facts mean or how those facts should be judged. My perception is that...is what is going on is that the Board, where there are disagreements, is that the Board and the Chief have...I've never heard that they don't feel they have the same set of facts, but they're coming at it from different viewpoints, different perspectives, and...the Chief is saying based on his experience in law enforcement and the training, etc., that he feels that...the officer's, uh, behavior was appropriate and that the complaint is not sustained and the Board coming at it from their perspective is saying, no, an officer should not have behaved this way and so they are sustaining that complaint. So if they're operating from the same set of facts, but it's different perspectives that get them to that sustained versus unsustained...conclusion (both talking)

Salih/ (both talking)

Mims/ What is an outside...what is a...well then the...if they don't all have the same facts, then I would still go back to saying the Board has the police off...the Police Chief's report before they...before they give their report. So as they're doing their investigation, if they don't believe they're gonna reach the same conclusion the police...the Police Chief does, and they believe they're not going to reach the same conclusion because of lack of facts, then they should call for an investigation at that point in time, not after they have publicly done a report.

Throgmorton/ Okay, I'm worried that we're gonna keep going over this same terrain over and over again. We've been doin' it for about an hour now. So, I mean it's important but... go ahead (mumbled)

Galpin/ I feel like we as a...as a police board have been kind of spinning our wheels on this since like early 2017 and so I think at least as a baseline, the suggestion of removing it from the consent calendar, having it as a separate item, having the City Council go over that, that's at least a starting point. That puts us closer, you know, enters us a little bit out of that spinning of our wheels, so that's a great starting point and so I know we're still kind of going back and forth about the investigator, but at least pulling it out of the consent agenda is recommended.

Throgmorton/ Thank you, Monique. I was gonna suggest that, but thank you. I'd like to make one other suggestion and that is if the Board feels very strongly....about the finding of not sustained, we need to know that. You know, cause...that will help us review the situation better.

Cole/ What about the twice a year? Did we decide (both talking)

Throgmorton/ Well let's see if we've got this decided first, okay? So, uh....

Fruin/ Go ahead, that's kinda where I was goin'.

Throgmorton/ Yeah, so are....are you in agreement that we should add this, I don't know, additional layer where basically we pull any item that's not sustained, we pull it out of the consent calendar and have it as a separate formal meeting agenda item.

Cole/ Yes.

Throgmorton/ And that the Board is totally invited, etc., to present the rationale for its disagreement with the....with the Chief and vice versa. Are we in agreement with that?

Salih/ Okay but do we have a plan?

Throgmorton/ Do we have a plan?

Salih/ What we gonna do after that?

Throgmorton/ I...I wanna know about this part first.

Salih/ (unable to understand) ...wanna know, we gonna have a plan so I can say yes or no. Why we doing this?

Throgmorton/ To provide additional public review, layer of review, of the....the fact that there's disagreement. (several talking)

Salih/ Okay.

Throgmorton/ And that the Board then would have the opportunity to be clear with us and then we'd have a chance to talk about it, and maybe help the Board understand why we are gonna support the Chief's recommendation or vice versa.

Cole/ Sounds reasonable to me.

Throgmorton/ I mean that's...seems to me that's what...what's involved. Okay (several talking) think we're okay with that part of it, huh?

Salih/ Is okay?

Townsend/ Do we get to meet twice a year and (both talking)

Mims/ We haven't done that yet. (several talking)

Throgmorton/ So, uh, is that the (both talking)

Cole/ Yeah, I was gonna bring up that point.

Throgmorton/ Yeah so....

Mims/ I'm sorry, before we get to that can we talk about the other piece, about the Manager's participation, cause that was in there (both talking)

Throgmorton/ Yeah, so the staff recommends that, uh, the City Manager not attend every, uh, such meeting, but I think there's some (both talking)

Dilkes/ Well, we're talking about two different meetings. We're talking about currently the Board...or the ordinance, requires that the Board...or that the City Manager, attend the interview with the police officer.

Throgmorton/ Okay.

Dilkes/ And so that's....that's where staff is suggesting we....we stop that, but we inc...we include the ability of the Board to ask for the City Manager's participation, if there's disagreement between the Board and the Police Chief.

Throgmorton/ Okay. I see Orville shakin' his head. Explain, please, why you don't think that's a good idea.

Townsend/ Well a while back we....we suggested that that happen, you know, because it means that you got....you've got, the more people you have in terms of visibility, you know, and the City Manager bein' part of the process, you know, we felt that that, uh, it...it kinda strengthen that process.

Teague/ So he's...so you're in agreement that the City Manager would attend the CPRB, when there's a disagreement, at the request of the (both talking)

Townsend/ ...the interview.

Fruin/ Maybe I can...maybe I can clarify this a little bit. Currently I sit in on the officer interviews, and that's it. That's the only part of the investigation that I'm....I'm involved in. So if there's (both talking)

Throgmorton/ For any such situation?

Fruin/ Correct. If there's witness interviews, if there are interviews with, uh, the complainant, I'm not involved in any of those. I....I get, I get brought into the interviews with our officers that are involved in the complaint. Um, and then I...I do not also attend the CPRB meetings. So I don't have any involvement in the process except for those officer interviews. Now, I don't feel very strongly about this item. If...if the public and the Council feels better by having me continue, that's fine. I can say the reality is, um, I review these instanc...these, um, cases holistically at the end anyway, okay? So I...I take a look at all the information, I sit down, I discuss 'em with the Chief, I discuss his findings, I discuss the CPRB, uh, findings with the Chief. So it's not like I'm removed from the process, um, with this recommendation, but that said, if...if the Council and if the public feels strongly that they want me to continue to be scheduled in on these officer interviews, that's fine. I just have not seen the value in that, in my two years.

Throgmorton/ Can you estimate how many such interviews you've sat in on, in on over the past year?

Fruin/ Well I don't know how many complaints we've had. I mean the complaints are only half a dozen a year and there's usually one officer interview associated, sometimes there might be a....a couple officer interviews. Uh, so it's not a....a huge, um, commitment of time. Um, as I...or as Eleanor noted in the memo, after talking with me, one of the challenges is just scheduling. Uh, so that the police get the complaint, they wanna schedule the officer, the officer, uh, may be workin' the night shift and I've got a busy schedule. We gotta get the super...the investigation team, which is usually two or three

supervisors, gotta get the officer, and you gotta get my schedule aligned. So it can slow things down. Obviously we're still cranking through these, so it's not, again, not a huge deal.

Matherly/ Let me add another piece. Officer Bill of Rights, we...we have to record those interviews anyway, so he would have the luxury of not just my synopsis and holistically looking at it, but listening to the interview itself and if he feels it fell short, we could certainly go back and do more on the interview. There's nothing that prohibits that.

Teague/ Just from hearin' everything that's been said about this part, I would...probably suggest that...or be in support of the City Manager attending, um, the CPRB, when there is a dispute between the findings. Um, I...to sit in each one of those, um, I think...at that point if it comes back to there's a difference in opinion, while he's already been exposed to that interview process, which could lead to some biases or somethin' like that, but I think it would be much cleaner if there was a dispute that he attend, uh, one of the CPRB's, when there's a dispute.

Throgmorton/ Can...can the Board know in advance whether it would be good to have the City Manager present for such interviews?

Galpin/ Sorry, can you repeat that?

Throgmorton/ Yeah. Uh, let's say there're like six or eight interviews that might occur during a particular year. Would the Board know ahead of time whether it's important for the City Manager to be present for one or two or whatever of those...uh, interviews?

Dilkes/ I think that's...if I can just...I think that's probably unlikely because it, the complaint goes directly to the Police Chief for the...for the investigation first. The Board doesn't...analyze it until they get the Police Chief's report. So I would say probably no.

Throgmorton/ So I...Council Members, do you have an opinion about this, in terms of whether, uh, Geoff should be present for these interviews?

Cole/ (mumbled) excuse me, I like giving Geoff the discretion, um, which I understand's consistent with the recommendation. So I...I would leave it to the discretion of the City Manager.

Taylor/ I agree with what Bruce had said as far as having...when there is the disagreement and sort of serving as a mediator type person...rather than...and if he did need to listen to the interviews, as...as the Chief said, they are taped and he could...he could review those, rather than sitting in on all of them.

Salih/ But, Orville, how helpful is that to you, if he sit for the interview between the officer and the Police Chief?

Townsend/ Well I think basically just bein' a citizen it's...it's a safeguard. You know, I mean, you know, like I told ya, I tried to be honest with ya upfront. My reactions don't have any...very much to do with the present. My reactions are a result of the past and what can happen in the future if we end up with a police chief that feels like 'I gotta protect my boys in blue.'

Throgmorton/ I'm gonna agree with Orville on this. How bout the rest of you?

Salih/ Me too. I do.

Throgmorton/ One....

Teague/ So we're agreein' that, I mean you're askin' if we would require the City Manager to sit in on every (both talking)

Throgmorton/ As...as is currently being done.

Salih/ Yes.

Fruin/ And let me just...for those of you who haven't responded, I don't want this to be a divisive issue. This doesn't need to be a divisive issue, and I think if there's not the comfort level at the Council level, and there's not the comfort level at the CPRB, then let's just keep the status quo. Again, may....maybe we revisit it down the road further, but it's more important that people are comfortable with the process than whether I've gotta work through scheduling six times or seven times a year.

Throgmorton/ Okay, are we agreeable with that? (several responding) All right.

Dilkes/ So do you also though want to add to the ordinance that the....the CPRB can request the City Manager's attendance at the meeting with the Police Chief, if there's a disagreement? I assume (several talking) as well? (several talking)

Throgmorton/ I would think that'd be a good thing. Yeah. All right, so the last component (both talking)

Townsend/ ...in all fairness to Geoff (mumbled) we...one of the new changes that we're requestin' is that we meet with the Police Chief, if there's a disagreement. So (mumbled) I...I don't think we want Geoff (mumbled) all the time but I think if we have a situation where we disagree and there's some strong feelings about it, then you know the Board should have the right to request that the City Manager sit in. That way we're not... monopolizin' his time.

Salih/ Sure.

Dilkes/ That's how I understand it (several talking)

Throgmorton/ Okay. The last point is...has to do with Or....Orville's suggestion that we assign two Council Members to meet with the Board twice a year.

Mims/ Is this something the Board has discussed at all or.....

Throgmorton/ Yeah, is it a Board recommendation, Orville, or just you?

Townsend/ No, no, no, no, no. It's just, uh, basically as I thought about it, you know, in terms... it's somethin' that in terms of, you know, I....I feel you guys appoint....you appoint us, but that's it, you know, and you really don't get much communication from us. You get a report and I think basically in terms of us just like we're requesting a change in ordinance right now, and we're discussin' it here, I think we'll come out lots better that way because it'll avoid us havin' the discussion that we had tonight.

Salih/ Uh huh.

Mims/ I don't disagree, but I do think something like this should come from the Board...the request should come from the Board as a whole....

Throgmorton/ I agree.

Mims/ ...not just one member. So....

Throgmorton/ Yeah, so please, uh, ask....ask your fellow Board members to discuss it. (several talking) Okay. Good deal (several talking) Okay! Thank you so much for coming.

Townsend/ Jim...

Throgmorton/ Yeah?

Townsend/ I just think you guys oughta get a (mumbled) (laughter)

Fruin/ I'll add just one more thing. I think, just listening to the conversation, it'd be helpful that, now that the items, where there's disagreement, will go on the regular agenda. What we should do is get the Council meeting transcripts and put those in the CPRB packets, so those members that could not attend can....can at least read the Council, uh, deliberation on the matter.

Throgmorton/ Okay! All right, we should move on and we have, let's see now, 25 minutes, somethin' like that. We should move on to our next topic, which is the solar feasibility study and what we wanna do is revisit some of our discussion from, uh, the meeting two times ago. So, Ashley, could you briefly summarize the memo for the benefit of anybody watching this on TV?

Solar Feasibility Study [IP4]:

COMMUNITY POLICE REVIEW BOARD
OFFICE CONTACTS
December 2018

Date
None.

Description

COMMUNITY POLICE REVIEW BOARD
COMPLAINT DEADLINES

CPRB Complaint #18-02

Filed:

09/27/18

Chief's report due (90 days):

12/26/18

Chief's report filed:

12/26/18

CPRB meeting #1 (Review):

01/08/19

CPRB meeting #2 (Review):

??/??/19

CPRB meeting #3 (Review):

??/??/19

CPRB report due (90 days):

03/26/19

TENTATIVE MEETING SCHEDULE

February 12, 2019

March 12, 2019

April 9, 2019

May 14, 2019