

# POLICE CITIZENS REVIEW BOARD

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## GENERAL RESPONSIBILITIES

Established in 1997, the Iowa City Police Citizens Review Board (PCRB) consists of five members appointed by the City Council. The PCRB has its own legal counsel.

The Board was established to assure that investigations into claims of police misconduct are conducted in a manner that is fair, thorough, and accurate, and to assist the Police Chief, the City Manager, and the City Council in evaluating the overall performance of the Police Department by reviewing the Police Department's investigations into complaints. The Board is also required to maintain a central registry of complaints and to provide an annual report setting forth the numbers, types, and disposition of complaints of police misconduct. It may recommend that the City Council hold public forums and/or hearings designed to encourage citizens to provide information, recommendations, and opinions about police policies, procedures, and practices. To achieve these purposes, the Board complies with Chapter 8 of the Iowa City Code and the Board's By-Laws and Standard Operating Procedures and Guidelines.

## ACTIVITIES AND ACCOMPLISHMENTS FOR FISCAL YEAR 2003

### Meetings

The PCRB holds monthly meetings on the second Tuesday and special meetings as necessary. This year the Board held 13 meetings, each lasting one to three hours. Two meetings were cancelled due to lack of a quorum and rescheduled to a later date.

### ICPD Policies/Procedures/Practices Reviewed By PCRB

The ICPD regularly provides the Board with monthly Use of Force Reports, Internal Investigation Logs, Demographic Reports and various Training Bulletins. The Department also provided various General Orders for the Board's review and comment. A senior member of the Police Department routinely attends the open portion of the PCRB meetings, and is available for any questions Board members have regarding these reports.

In January 2003 the Board was requested by the City Manager to review the ICPD Traffic Stop Policy, General Order #99-07. The Board concluded that while generally sound, GO#99-07 is deficient in one area, I.E., how to respond in situations where the motorist fails to obey the orders or commands of an officer pursuant to a traffic stop. The Board recommended that clear and specific guidelines be provided for situations where an officer's request or command is not honored and suggested this be addressed in the Standard Operating Guideline, the General Order or both. Training addressing these situations was also recommended.

### Presentations

Two presentations were made to service organizations by Board members using the PCRB videotape which is intended to (1) inform and engage the citizens of Iowa City regarding the origin, role, and function of the PCRB, and (2) explore some of the issues that surround the PCRB.

### Board Members

One member of the Board, William Hoefft, resigned and a new member, David Bourgeois, was appointed to replace him. Candy Barnhill was also appointed to the board on June 24 to serve a 4-yr term beginning September 1, 2003. The Board recommended and the City Council approved a change in Article 5 of the PCRB by-laws. The Board also requested the City Council remove a member for excessive absences and Council approved the removal.

## COMPLAINTS

### Number and Type of Allegations

Seven complaints were filed during the fiscal year July 1, 2002 – June 30, 2003. Four public reports were completed during this fiscal period, and one complaint was summarily dismissed as required by City Code, Section 8-8-3 D and 8-8-3 E. The complaint was not filed within 90 (ninety) days of the alleged misconduct. The four completed public reports involved 9 allegations.

### Allegations

#### Complaint #02-01

1. Discourteous behavior on duty.
2. Failure to provide for the safety and protection of an arrested person.
3. Excessive use of force.

#### Complaint #02-02

1. Rude and disrespectful behavior on the part of the officer involved.
2. Officers used unreasonable or unnecessary force to gain the Complainant's compliance, and handcuffed his wrists so tightly as to cause injury
3. Rude and disrespectful behavior towards the bar proprietor on the part of the officer involved.

#### Complaint #02-03

1. Officer A's actions toward the mother of a small child were inappropriate.

#### Complaint #02-04

1. Officer A made an inappropriate contact with the complainant because her daughter had urinated in some bushes in the Pedestrian Mall.
2. Officer A made an improper referral to DHS concerning the Complainant's parenting of her daughter.

#### Complaint #03-03

Complaint summarily dismissed.

### Level of Review

The Board decided, by simple majority vote, the level of review to give each report, selecting one or more of the six levels specified in the City Code per complaint:

<b>Level a</b>	On the record with no additional investigation	4
<b>Level b</b>	Interview or meet with complainant	0
<b>Level c</b>	Interview or meet with named officer	0
<b>Level d</b>	Request additional investigation by Chief or City Manager, or request police assistance in the Board's own investigation	0
<b>Level e</b>	Board performs its own additional investigation	1
<b>Level f</b>	Hire independent investigators	0

### Complaint Resolutions

The Police Department investigates complaints of misconduct by police officers. The Police Chief summarizes the results of these investigations and indicates in a report (the Chief's Report) to the PCRB whether allegations are sustained or not sustained. (If complaints are made against the Chief, the City Manager conducts the investigation and prepares and submits the reports.) The Board reviews both the citizen's Complaint and the Chief's Report and decides whether the allegations should be sustained or not sustained. The Board prepares a report for the City Council.

None of the 9 allegations listed in the four complaints for which the Board reported were sustained.

The Board made comments and/or recommendations for improvement in police policy, procedures, or conduct in one of the reports:

#### Complaint #02-01

- Ordinance #01-3976 requires the Board to give deference to the Police Chief's or City Manager's Report because of the Police Chief's and City Manager's professional expertise. The Board may recommend that the Police Chief or City Manager reverse their finding only if : (a) the findings are not supported by substantial evidence, (b) the findings are unreasonable, arbitrary or capricious, or (c) the findings are contrary to a Police Department policy or practice or federal, state or local law. In the current case the Board concluded they must sustain the Chief's conclusion regarding allegation #2, but felt some uneasiness in doing so. The uneasiness stems from the "substantial evidence" requirement. In the current case there is no disagreement regarding whether or not the complainant was in the custody of the officer or whether the injuries resulted from the officer's actions. At issue is whether the injury was inevitable or whether it could have been prevented without jeopardizing the Officer A's control over the subject. There is not a great deal of information that bears on this issue. There is, the Board believes, a preponderance of evidence to support the contention that the Complainant offered resistance to Officer A of a verbal and physical nature.

Was this resistance sufficient to require the complainant to be placed on the ground to retain control? The decision of Officer A was "yes, it was necessary." This decision is supported by the Chief's Report. Was the resistance sufficiently strong that Officer A could not have guided the Complainant to the ground without causing injury? Officer B did not appear to feel that the resistance was great enough to require his assistance nor did Officer A request it. The Board believes that there is no information in the Chief's Report that bears directly on this question. The Complainant was handcuffed with his hands behind the back making it obvious that if he were taken, placed or directed to the ground face forward without some support he would have a high probability of injury.

The Board is required to rely on the Chief's expertise unless there is a lack of substantial evidence to support his conclusion. The Board feels substantial evidence is lacking that the injury to the complainant was beyond Officer A's control, but the Board also feels that there is insufficient evidence that the injury was the result of indifference, negligence or malice. Hence, the Board's conclusion that the allegation #2 was not sustained. The Board is concerned that when arrested individuals are substantially unable to protect themselves (as when handcuffed with their arms behind them) officers be sensitized to the possibility that this vulnerability could result in serious injury when efforts to control the subject are implemented. The Board recommends this topic be addressed in training if it is not already being done.

#### **Name-Clearing Hearings**

The ordinance requires that the Board not issue a report critical of the conduct of a sworn officer until after a name-clearing hearing has been held. During this fiscal period, the Board scheduled one name-clearing hearing. The Officer waived the right to the hearing and did not attend.

#### **Mediation**

Officers and complainants are notified by mail that formal mediation is available to them at any stage in the complaint process before the Board adopts its public report. All parties involved must consent to a request for mediation. No mediations were convened this year.

### Complaint Histories of Officers

City ordinance requires that the annual report of the PCRB must not include the names of complainants or officers involved in unsustained complaints and must be in a form that protects the confidentiality of information about all parties. Complaints were filed against four officers in the four complaints this report covers. One officer was named in two; the rest were each named once.

### ICPD Internal Investigations Logs

The Board reviewed the quarterly ICPD Internal Investigations Log, provided by the Chief of Police.

### COMPLAINT DEMOGRAPHICS

The following is demographic information from the five complaints reported on in this fiscal year. Because complainants provide this voluntarily, the demographic information is incomplete.

#### Category/Number of Complainants

<b><u>Age:</u></b>		<b><u>National Origin:</u></b>		<b><u>Color:</u></b>	
Under 21	0	US	3	White	2
Over 21	3	Unknown	1	Olive	1
Unknown	1			Unknown	1
<b><u>Sexual Orientation:</u></b>		<b><u>Gender Identity:</u></b>		<b><u>Sex:</u></b>	
Heterosexual	3	Female	1	Female	1
Unknown	1	Male	2	Male	2
		Unknown	1	Unknown	1
<b><u>Marital Status:</u></b>		<b><u>Religion:</u></b>		<b><u>Mental Disability:</u></b>	
Single	3	Christian	1	No	1
Married	0	Unknown	3	Aspergens Syndrome	1
Unknown	1			ADHD	1
				Unknown	1
<b><u>Physical Disability:</u></b>					
No	3				
Unknown	1				

### BOARD MEMBERS

John Stratton, Chair  
 Loren Horton, Vice Chair  
 John Watson  
 Bill Hoeft / David Bourgeois  
 Beverly Smith