

Date: December 22, 2020

To: City Council

From: Community Police Review Board

Re: Report and recommendation of proposed changes to the Community Police Review Board pursuant to Resolution 20-159 (Resolution of Initial Council Commitments addressing the Black Lives Matter Movement and Systemic Racism in the wake of the murder of George Floyd by Minneapolis Police and calls for action from protesters and residents).

The members of the Iowa City Community Police Review Board (hereafter, "CPRB") submit the following report and recommendation for proposed changes to the Community Police Review Board to enhance community oversight of the Iowa City Police Department.

PROPOSED CHANGE 1 – THAT IN INSTANCES OF A SUSTAINED MISCONDUCT COMPLAINT, THE CPRB BE GIVEN INFORMATION ABOUT THE CORRESPONDING DISCIPLINE, AND THAT THE CPRB BE ALLOWED TO INCLUDE IN ITS REPORT ITS FINDINGS ON WHETHER THE DISCIPLINE IS REASONABLE AND FAIR.

a. Proposed Change 1

The CPRB is requesting that, upon there being a sustained report of misconduct by the Chief of Police/City Manager, that it also be provided:

- A report from the Chief of Police/City Manager outlining the discipline to be administered to the officer as a consequence of the misconduct. Within the report, the Chief of Police/City Manager shall detail the factors used to determine the discipline, including: (a) The severity of misconduct in the complaint; (b) Whether the officer was found to have committed the same or similar type of misconduct in the past; (c) Prior exemplary conduct of the officer; (d) Prior training related to the circumstances in which the officer was found to have committed misconduct; (e) Clarity of the conduct prescribed for an officer in the Iowa City Police Department's Operating Procedures relevant to the circumstances in which the officer committed misconduct; and (f) Other circumstances that call for enhancing or mitigating the discipline to be administered.
- Copies of the officer's: (a) discipline history; (b) exemplary conduct history; (c) the officer's training history; (d) any operating procedures relevant to the Chief of Police/City Manager's determination of discipline for the misconduct; (e) evidence or documentation relied on by the Chief of Police/City Manager of enhancing or mitigating circumstances that impacted the decision on the appropriate level of discipline to be administered; and (f) any additional documents or other evidence

related to any of the above disclosures made by a reasonable request from the CPRB.

b. Reasoning for the proposal

The most critical role of the Community Police Review Board (“CPRB”) is to provide an independent review, on behalf of the community, over the conduct of the Iowa City Police Department (“ICPD”) including its Chief and all officers. When a complaint of misconduct is filed, presently, the CPRB only has authority to agree or disagree with the findings of the Chief of Police and/or City Manager as to *whether or not misconduct has occurred*. The CPRB is not provided with information about how an officer is disciplined in cases where misconduct is found,

The CPRB believes having information regarding the disciplining of an officer, as well as any other consequences to an officer where the officer has been found to have committed misconduct, is integral to having effective oversight of the ICPD. Discipline information allows for oversight to make sure the discipline matches the offense, to help deter future misconduct, to ensure discipline is equitably administered, and to align the level of discipline and reasons for variances with precedent and the community’s values.

The importance of the CPRB having information is perhaps best explained by a hypothetical of an officer using excessive force resulting in serious injury to a community member. Assume that the Chief of Police issued a report finding the officer to have committed grave misconduct. Through the current CPRB complaint process, the CPRB would review the Chief’s report and file its own findings in the CPRB report. In the current system, the CPRB would sustain the Chief’s finding of misconduct, and report the same to City Council, having no information on, and making no finding regarding, discipline to the officer. Assume further, for this hypothetical, that the Chief issued no discipline to the offending officer, despite the seriousness of the misconduct, and despite such lack of accountability being in clear contradiction to the goals of the Iowa City Community. Such lack of discipline will go undetected by the CPRB under the current system. Further, instead of being able to raise public awareness as to the lack of appropriate accountability for misconduct in the ICPD, the CPRB report would be suggestive that the ICPD was correctly managing complaints of misconduct in so far as it sustained (concurred with) the ICPD’s finding of misconduct. This hypothetical shows that it may do little good, or actual harm, for the CPRB to only report on the issue of *whether* misconduct occurred, without being able to review and opine as to the corresponding consequences when misconduct is found to have occurred.

Establishing a process through which the CPRB can review and report on disciplinary decisions administered by the Chief of Police/City Manager will greatly improve the oversight into how the ICPD holds its officers accountable for misconduct, increase transparency, and raise community confidence in the board’s oversight capabilities.

c. Additional comments/concerns for consideration

Consensus for proposing this change was reached by the CPRB as the members found it carefully navigated the line of allowing the CPRB to remain an advisory review board and not an administration board. That is, the CPRB would still be reviewing decisions made by the administrators, as opposed to administering discipline itself. The issue of how much administrative functions the CPRB should be given, especially related to discipline, was the most debated subject for the CPRB. The majority opted to

remain an advisory board for reasons that include: (1) that members are not trained in employment matters, police procedures, or administration tasks; (2) the need to preserve the administration autonomy of the Chief of Police to manage the department; and, (3) the potential liability that would attach to CPRB members if they were the ones determining employment matters such as discipline.

Careful consideration must be given to protect the confidentiality of information such as discipline information. It is understood that some legislative changes must occur to allow for a CPRB review to be an exception to the confidentiality laws regarding discipline information. It is believed that legislation could be narrowly tailored to permit such disclosures. This may only be possible if the discipline part of the review were to remain confidential between the City Council and the CPRB and not be a public record. Even with this limitation, the public could still have assurances that the discipline in cases where misconduct is found is being reviewed, and that the CPRB can bring concerns to the City Council in cases where the CPRB does not find the discipline to be reasonable or fair. Further, legislation should be drafted so as to limit liability that may attach to a CPRB volunteer for any accidental disclosure of confidential information.

d. Additional sources relevant to the proposed change

Some police review boards across the nation have access to disciplinary information and varying degrees of related authority. In Daytona for example, the Police Department will “provide the board with the full internal affairs file, unless any portions are determined to be exempt from disclosure or confidential by law.” (Daytona Beach close to launching Citizens’ Police Review Board, 2020)¹. The review board will “discuss the allegations of a case, the adequacy of the investigation, the final discipline that was meted out, and whether the police leadership response was appropriate” during their public meetings. *Id.* In addition, “[t]he board will issue a written report that includes the name of the complainant, the name of the accused officer or officers, a summary of the allegations and board members’ decisions to agree or disagree with the disciplinary findings.” *Id.*

II. PROPOSED CHANGE 2 –THE CPRB SHALL HAVE THE AUTHORITY TO REQUEST THE CITY COUNCIL HAVE A DISCIPLINARY HEARING.

a. Proposed Change 2

The CPRB proposes that there be a mandatory meeting within 30 days of the CPRB’s request to the Chief of Police/City Manager between the CPRB and the Chief of Police/City Manager to discuss the discrepancy in their respective opinions on the reasonableness and fairness of the discipline the Chief/City Manager propose to administer. This meeting would occur only in instances where all of the following circumstances exist:

1. There has been a finding of misconduct in a complaint;
2. The Chief and/or City Manager have disclosed a report with all information on their decision of how the officer will be disciplined for the misconduct (this assumes proposed change 1 has been accepted); and,
3. The CPRB disagrees with the reasonableness or fairness of the discipline to be administered by the Chief and/or City Manager.

If, through the course of the meeting, the discrepancy is resolved either due to the Chief/City Manager having made an independent decision to change the discipline to be administered, or the CPRB changing their majority opinion as to the reasonableness and fairness of the discipline, the CPRB report will note that the meeting occurred and that the CPRB agrees to the reasonableness and fairness of the discipline the Chief/City Manager have determined to administer in the meeting.

If, despite the meeting, the CPRB cannot conclude that the discipline to be administered by the Chief of Police is reasonable and fair, then the CPRB shall have the discretion to either (1) issue a report detailing their disagreement with the discipline, or (2) make an additional request that the City Council for Iowa City ("City Council") conduct a disciplinary hearing to independently determine whether the proposed discipline is reasonable and fair. In the event of a hearing, the CPRB shall be allowed to attend, and, in any event, be informed of all outcomes related to the hearing and/or disciplining of the officer.

b. Reasoning for the proposal

The majority of the CPRB believe that this proposed change would allow for the effective oversight of the disciplining of officers in cases where misconduct is found, while allowing the CPRB to remain an agent for community review and not an administrator. The goal of the review is to try to ensure that the operations of the ICPD are in line with the interests of the community. This goal can be best achieved, when, in instances of disagreement between the CPRB and the Chief/City Manager as to the appropriateness of the discipline to be administered when misconduct is found, a meeting can be held to try to reconcile the discrepancy. The CPRB is not trained or authorized in matters of disciplining police officers or employment law. Deference to the Chief/City Manager's autonomy in their capacity to govern the ICPD and their knowledge of inner working in the police department beyond the discipline of a particular case must also be given. The meeting is a forum that would allow for additional consideration of the Chief's/Manager's position that may better inform the CPRB members of the reasonableness and fairness of the discipline to be administered. Similarly, the CPRB might inform the Chief/Manager of the community's concerns and values as it relates to disciplining of the officer(s) for the misconduct found. Thus, the meeting in instances of incongruity of opinions between the ICPD and the CPRB, would hopefully resolve the discrepancy. Such resolution would potentially save time and tax-payer money by foregoing the potential for a disciplinary hearing.

The meeting is very similar to recent ordinance changes proposed by the CPRB and adopted by the City Council, to allow a meeting between the Chief/City Manager with the CPRB when there is a discrepancy between the finding of whether misconduct occurred by the Chief/City Manager and the CPRB.

The CPRB requests the additional authority of being able to recommend that the City Council conduct a disciplinary hearing in cases where the CPRB and the ICPD disagree on the reasonableness and fairness of the discipline in cases when misconduct is found. The CPRB believes this gives some "teeth" to its findings that may not just be ignored by the ICPD in cases where there is a discrepancy. Importantly, though, this change would still leave the CPRB being a "review" board, as the administrative functions for determining and implementing the discipline would remain in the hands of the City Council and/or the Chief/City Manager. The effectiveness of the CPRB having the authority to recommend to the City Council to hold an independent disciplinary hearing for an officer should not be understated. First, it is the consensus of the CPRB that sunlight is the best disinfectant, and shining light on discipline matters

that need additional review for the public has bite itself. In addition, the very real threat of City Council conducting a full disciplinary hearing, and certainly the consequences if the discipline proposed to be administered by the ICPD was found to be unreasonable and unfair by the City Council after such a hearing, give the CPRB's recommendations real effect.

c. Additional comments/concerns for consideration

The current CPRB is split on whether the CPRB should be given authority to administer discipline itself. A majority of the members are of the opinion that the CPRB should remain an advisory board as opposed to an administrative board rely on the following points in support of their position:

- The CPRB is not trained in employment law or matters of disciplining officers.
- The CPRB should not over-compromise the Chief of Police from carrying out administrative functions.
- Privacy laws rightfully protect dissemination of sensitive employment information that would be required to be disclosed to make a truly informed decision on the administering of discipline in any situation.
- Liability would attach to members of the CPRB when they make determinations affecting an officer's employment.
- The CPRB members are appointed, and not elected as officials to make such a decision for the community.

Some members of the current CPRB urge that the CPRB be given the power to administer discipline. In support of their position, they contend that CPRB decisions on misconduct are irrelevant unless their decisions carry the power to issue corresponding discipline. They would like the CPRB to have the authority to:

- Discipline an officer for misconduct;
- Discipline an officer for failing to cooperate with an interview or investigation into the complaint;
- Require an officer to participate in mediation with a complainant;
- Call for a public hearing to hire/fire an officer or Chief of Police; and,
- If there were a disciplinary hearing that there be opportunities for the public to comment and the final decision as to the appropriate discipline to administer would be made by a majority vote of the combined bodies of the CPRB and the City Council.

CPRB members wanting authority to discipline officers directly contend that such authority and public disclosure of the disciplining of an officer is necessary to enhance the understanding of the officers of the ICPD's interactions with citizens, give opportunities to explain officer actions to citizens, enhance satisfaction with the complaint process, empower the community members – complainant and non-complainants alike, give opportunity to learn from mistakes of officers, and enhance the opportunity to meet community goals. They further contend with regards to the public hearing for hiring/firing of the Chief of Police, that such a public event would greatly improve the community confidence in their oversight of the ICPD by allowing real feedback and accountability to the community members directly.

Ultimately, the consensus of the CPRB was propose the limited change for the CPRB to allow it to review discipline matters and, in the cases where the CPRB disagreed with the ICPD as to the reasonableness and fairness of the discipline, to have authority to request the City Council have a disciplinary hearing.

d. Additional sources relevant to the proposed change

- Regarding the authority to review or administer discipline:
 - The Las Vegas Metropolitan Police Department Citizen Review Board makes recommendations to the Sheriff regarding discipline, policies, procedures, and programs (2020)ⁱ.
 - Columbus, Ohio, has a measure on the ballot that would create a review board that would “make recommendations to the Division of Police, including recommendations for disciplinary actions if relevant.”ⁱⁱⁱ
 - The Virginia State Senate recently advanced a bill that would allow review boards to “make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards.”^{iv}
 - Steven Morrison, a professor at the University of North Dakota School of Law, said police review “boards are probably better than nothing, but as far as changing things he believes they have minimal value unless they are given enforcement power.”^v

- Regarding the opinion of a minority group of the CPRB that the CPRB should have authority to require mediation between a complainant and officer(s):
 - According to a guide from the U.S. Department of Justice Office of Community Oriented Policing Services, “[m]ediation focuses on mutual understanding, problem solving, and reconciliation - all vital aspects of increasing trust between parties.”^{vi} The guide further details mutually beneficial outcomes for mediation. *Id.* The guide reports that, “[i]n a series of focus groups in Omaha, Nebraska, individuals were asked to discuss whether they would file a complaint in response to a hypothetical incident of police misconduct and what they wanted to achieve if they did. Many participants indicated a desire for an explanation or apology from either the officer or a responsible official, or they wanted an opportunity to express their views to the officer in person.” *Id.*
 - The Alberta Law Enforcement Review Board found that in some instances, “all the citizen wants is an apology” and that mediation provides the officer with a forum in which to “explain to a citizen why he or she acted in a particular manner” (Alberta Law Enforcement Review Board 1997)^{vii}. “Research indicates that complainants who choose mediation do report higher levels of satisfaction than those who choose the traditional process.” *Id.*
 - “Mediation introduces a new dimension to police accountability. In traditional complaint procedures, an officer accused of misconduct is directly accountable only to other police officers: internal affairs investigators, the immediate supervisor, and, in some instances, the chief of police ^{viii}(Walker 2001). The officer never has to directly face or account to the citizen who has filed the complaint. In contrast, an officer participating

in mediation is directly accountable to the citizen who filed the complaint. Mediation may help personalize American policing.” *Id.*

- In her report on community justice, restorative justice, and community policing, Caroline Nicholl explains that community justice "is shifting criminal justice from a purely adversarial approach to include problem-solving methods"^x (Nicholl 2000a).
 - The DOJ paper^x would be a tremendous resource in planning as it goes beyond the benefits of mediation and details various practical ways to create a program. It states that “mediation is much less expensive than traditional complaint investigations. The Minneapolis Civilian Review Authority (CRA) pays a flat rate of \$2,000 a year to the Minneapolis Mediation Center (a community-based nonprofit organization supported by funding from city and county government agencies, civic organizations, and individuals and clients) to provide mediators, who work pro bono, to handle police cases.”
 - There is a nonprofit mediation center in Iowa City, Mediation Services of Eastern Iowa (About Us - MSEI, 2020)^{xi}, with the structure in place like suggests.
- Regarding the authority to hire/fire the Chief of Police:
 - In Oakland, California the Mayor is required “to appoint any new Chief of Police from a list of candidates provided by the Commission” (2020)^{xii}.

III. PROPOSED CHANGE 3 – THAT AN ACCUSED OFFICER BE REQUIRED TO COMPLY WITH A CPRB INVESTIGATION OR BE DISCIPLINED BY THE CHIEF OF POLICE/CITY MANAGER.

a. Proposed change 3 –

The CPRB is requesting that the ordinances be changed so that the Chief of Police shall discipline an officer in the event an officer does not cooperate fully with a CPRB investigation. Discipline should occur for failure to cooperate with an investigation regardless if the officer is the one accused of the misconduct. Cooperation includes appearing for, and giving thoughtful responses under oath to, interview questions by the CPRB.

b. Reasoning for the proposal

Currently, as part of the CPRB investigation, the CPRB has the authority to interview witnesses, including officers, both accused and non-accused alike. However, there is no present duty or order that requires an officer to participate in the investigation or interview. Similarly, there is no repercussion to the officer for not participating. Without such a duty or repercussion, it is likely that an Officer will not participate in the investigation, respond to a request to be interviewed, or participate in a name-clearing hearing. Indeed, the collective experience of the CPRB over the years has proven this to be true. With such repercussions, it is much more likely the Officer’s participation can be secured, greatly enhancing the CPRB’s investigation and ensuring more accuracy of its findings and reporting.

c. Additional comments/concerns for consideration

At least some members of the current CPRB have concerns over the legality of compelling an officer to testify in instances of alleged misconduct, especially when the officer may be asked to provide self-incriminating information.

Also, and relatedly, officers may want or need to be represented by legal counsel to protect their interests. The CPRB, in kind, will likely also need an attorney present for consultation. This has the potential to add a large amount of taxpayer expense to the review process. It is hoped that the discretion of the CPRB would be exercised with this expense in mind so that the requirement for compelling testimony under oath would be used judiciously. It is believed such interviews may be compelled sparingly given the prevalent access to body-cameras, car-cameras, and other data that may make this part of the interview process superfluous. That said, without question, officers will be interviewed if deemed necessary to complete a thorough investigation of the facts.

Further, in the interests of fairness, an officer would reasonably want the Complainant to be required to be interviewed as well. Hand in hand with this, is the chilling effect on community members filing a complaint if they may be interviewed by attorneys.

d. Additional sources relevant to the proposed change

None.

IV. PROPOSED CHANGE 4 - A COMPLAINANT SHALL HAVE THE RIGHT TO RESPOND TO THE CHIEF'S FINDINGS IN THE CHIEF'S REPORT BEFORE THE CPRB SHALL CONDUCT ITS INVESTIGATION.

a. Proposed Change 4 –

The CPRB is requesting that, after the Chief of Police/City Manager has issued a report to the CPRB with the findings of fact and whether allegations of misconduct are sustained, that a copy of that report be disclosed to a complainant. A complainant would then have opportunity to respond to the Chief/City Manager report for the CPRB to consider in advance of their investigation.

b. Reasoning for the proposal

Presently, the CPRB conducts its investigation after receiving a copy of the Chief's report. The Chief's report summarizes a narrative-type complaint, identifies specific allegations of misconduct, and makes conclusions for the same. In some instances the narrative complaint and the specific allegations of misconduct are clear. In others, it may be somewhat challenging to ascertain all of the allegations in the Complaint – most likely prepared without the assistance of legal counsel.

While the CPRB has the capacity in its review to interview a complainant in the cases of ambiguity of allegations of misconduct, this is not required. Further, there may be an unintended chilling effect on the filing of complaints if a complainant is required to be interviewed; many people would be uncomfortable about speaking to a panel of strangers investigating their sensitive matters. In any event, there is not any opportunity, otherwise, for a complainant to provide clarifying information or object to how the Chief/City Manager characterized the allegations of misconduct in their report. If a complainant were given an automatic opportunity to review the Chief's report and respond to the CPRB in a timely fashion, the CPRB report can be more accurate, and it would be more likely that a complainant would feel his allegations were fairly identified and reviewed.

c. Additional comments/concerns for consideration

One can conceive that by providing a response after the ICPD has responded to a complaint may provide a complainant with a vehicle to keep tacking on complaints. Such a step might allow "too many bites at the apple." Also, in the interests of equity, the Chief and/or City Manager may want or need to have an opportunity to respond to any additional report of misconduct or clarification by the Complainant. At some point the process must stop and run its course. Still, it is believed that with careful procedural guidelines, a response from the Complainant could be incorporated that would benefit the CPRB's review.

d. Additional sources relevant to the proposed change

None.

V. PROPOSED CHANGE 5 – THE ONLINE DATABASE OF OFFICER COMPLAINTS SHALL BE IMPROVED TO ALLOW FOR QUICK SEARCHES OF COMPLAINT HISTORY AND A COMPUTERIZED RISK-MANAGEMENT SYSTEM TO ANALYZE TRENDS.

a. Proposed Change 5 –

The CPRB is requesting that the online public database be enhanced so that one can search complaints, discipline, and training records of any officer. Currently, to protect sensitive identifying information such as the officer's name, each officer of the ICPD has been assigned an individual tracking number. This number can be used in lieu of officers' names to allow for tracking of complaints, reports on complaints, discipline, and training records for any officer while still protecting the privacy and safety of the officers.

Notably, the database shall include all complaints, not just those filed by members of the community or through the CPRB process. The database shall be searchable for snapshots for the number and type of complaints in any month or any year, their resolution, and any trends. A computerized risk-management tracking system should be implemented to quickly analyze data in search of trends.

b. Reasoning for the proposal

The CPRB believes that data tracking is important to its effectiveness of examining trends and repeated instances of misconduct carried out by a few of the officers. When evidence shows that officers who engage in misconduct tend to do so repeatedly, it is vital to be able to identify officers who have emerging patterns of complaints. Treating each complaint as an isolated incident without tracking data of individual officers makes it impossible to discover problematic officers and remove them from public engagement.

Having a database online that allows the public to quickly identify all complaints for an officer will allow patterns of conduct for an individual officers to be identified and investigated. Similarly, snapshots of the type of complaints over a month, and a year, will allow for identification of trends and areas where more oversight is needed.

Further, if the CPRB is given authority to review discipline, having access to other complaints, discipline, and training will be important to assess the reasonableness and fairness of the discipline. The database should be searchable type of complaint, and findings of misconduct, on a monthly and annual

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report, and identify the officers under the categories. This would allow any member of the community to see the trends and raise concern in the public section of the CPRB meetings.

While some members of the CPRB would like names to be released, the clear majority disagreed out of concern for officer safety. A compromise was reached whereby each officer will be assigned a unique, consistent, anonymous identification number that would accompany each complaint, to allow for more thorough tracking and review while still protecting the privacy of the officer.

c. Additional comments/concerns for consideration

Extreme caution should be taken to protect against disclosure of identifying information of officers outside of their tracking number to protect the safety of the officer.

d. Additional sources relevant to the proposed change

- Regarding the need to identify repeat offenders/trends:
 - According to a 2001 National Institute of Justice Research Brief (Walker, Alpert and Kenney, 2020)^{xiii}, “10 percent of officers cause 90 percent of the problems,” and investigations have revealed that approximately “two percent of all officers are responsible for 50 percent of all citizen complaints.”
 - A publication by the West Virginia Advisory Committee to the US Commission on Civil Rights states that “Improving existing accountability procedures will assist in preventing police misconduct and will provide the public with confidence that such acts of misbehavior will be documented and that officers will be disciplined accordingly.”^{xiv}
- Regarding the use of tracking systems:
 - Computerized tracking systems have been installed in various police departments across the nation, including the Pittsburgh city police, the Los Angeles Police Department, and the New Jersey State Police, among others. In Pittsburgh, reports of police misconduct have dropped by more than half on average since the tracking system was installed.” (Chapter 4: Alternative Models for Police Disciplinary Procedures, 2020)^{xv}

VI. PROPOSED CHANGE 6 – ALL COMPLAINTS OF MISCONDUCT SHALL BE INCLUDED IN THE POLICE DEPARTMENT’S MONTHLY DISCLOSURES TO THE CPRB.

a. Proposed Change 6 –

The CPRB is requesting that copies of all complaints filed by a community member to the ICPD be included with the monthly packet of information the ICPD discloses to the CPRB.

b. Reasoning for the proposal

Currently, the CPRB is only given the reports from community members that are made to the CPRB directly, as well as a quarterly *summary* of complaints made to the ICPD. If the CPRB is provided with copies of the reports made to the ICPD and not the CPRB, it allows for the CPRB to exercise

discretion for doing additional independent investigation of the complaint. Disclosure on a monthly basis would allow the CPRB to do so in a timely fashion.

Also, since the George Floyd incident, it has become even more obvious that many persons in our community did not have knowledge of the CPRB or its functions. There is a very real possibility that complainants may not have knowledge of the CPRB when filing a complaint directly with the ICPD. This is especially true with Iowa City being a college town with many students temporarily transplanted in Iowa City. Having the reports filed with the ICPD within a month of when they were filed would help protect against these community members missing out on the oversight of the CPRB in instances they did not know of the CPRB.

c. Additional comments/concerns for consideration

None.

d. Additional sources relevant to the proposed change

None.

VII. PROPOSED CHANGE 7 - CPRB SHALL BE PROVIDED WITH ADDITIONAL INFORMATION IN THE POLICE DEPARTMENT QUARTERLY REPORTS TO REVIEW FOR CERTAIN TRENDS

a. Proposed Change 7 –

The CPRB is requesting that, included in the quarterly reports provided by ICPD, that it also be given the following information:

- i. Total number of detained individuals;
- ii. Demographics of the individuals detained;
- iii. Total number of arrested individuals; and,
- iv. Demographics of those arrested.

b. Reasoning for the proposal

Perhaps as important as providing an independent examination and report of individual claims, is to provide such oversight for trends and larger ways in which the Iowa City Police are executing its duties on a day-to-day basis. While the CPRB is provided with some information already to assist with such larger oversight, some additional information would be useful to help protect against intentional or unintentional bias or disproportionate outcomes.

c. Additional comments/concerns for consideration

None.

d. Additional sources relevant to the proposed change

None.

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VIII. PROPOSED CHANGE 8 – CPRB SHOULD HAVE THE AUTHORITY TO HIRE AN INDEPENDENT AUDITOR TO REVIEW THE POLICE DEPARTMENT’S INTERNAL INVESTIGATION PROCEDURES.

a. Proposed Change 8 –

The CPRB is requesting that it be given authority and sufficient funding to hire an independent auditor to review ICPD’s internal investigation procedures.

b. Reasoning for the proposal

Since ultimate authority for investigatory outcomes is held by the ICPD, it is vital to ensure that its procedures are unbiased, complete, and follow best practices. A regularly scheduled independent audit (every 1-2 years at the CPRB’s discretion) would provide an opportunity for the Police Department to receive consistent review and recommendations for improvement that can be implemented in the interims. In addition, the CPRB should have the authority to recommend an audit if they believe that there is an immediate procedural issue that cannot be reconciled through other means.

c. Additional comments/concerns for consideration

None.

d. Additional sources relevant to the proposed change

- Other cities that have used independent auditors to review police procedures include but are not limited to:
 - Charleston SC (<https://www.charleston-sc.gov/2250/Racial-Bias-Audit>),
 - North Charleston SC, (Yee, 2020)^{xvi} (Dennis and Yee, 2020)^{xvii} ,
 - Salem NH, (Audit of Community Policing Policies, Procedures and Programs, 2020)^{xviii} (Police Audit | Salem NH, 2020)^{xix},
 - Albany NY (<https://www.timesunion.com/news/article/Albany-hiring-firm-to-study-racial-bias-in-police-15509749.php>),
 - Roswell (<https://www.ajc.com/news/local/roswell-pay-77k-for-external-audit-police-department/EfCl6kzsYigRhzhIOBUYSK/>),
 - Vallejo CA (<https://www.nbcbayarea.com/news/local/north-bay/vallejo-to-release-third-party-audit-of-police-dept-next-week/2308338/>),
 - Eugene OR (<https://www.eugene-or.gov/DocumentCenter/View/18785/Civilian-Review-Board-Policies>),
 - Los Angeles CA, ([http://www.lapdonline.org/inside the lapd/content basic view/8772](http://www.lapdonline.org/inside%20the%20lapd/content%20basic%20view/8772))

IX. PROPOSED CHANGE 9 – CPRB SHALL BE PROVIDED CITY FUNDING TO PROMOTE AWARENESS OF THE CPRB AND ENHANCE ACCESSIBILITY TO ITS SERVICES.

a. Proposed change 9 –

The CPRB is requesting that it have sufficient funds provided to advertise its existence, services, and make its services more accessible to the public. This would include, but not be limited to, funds for

outreach activities, meetings being streamed live, and enhancements to the website to make them more user friendly.

b. Reasoning for the proposal

After the George Floyd incident and the protests, attendance at our meetings and public forum was high, and a common report from feedback from the community was that they did not previously know of the CPRB. It was also obvious many in the community who were informed enough to attend the CPRB forum did not have a clear understanding of the purpose or function of the CPRB. Presently, there is little effort or funding provided to inform the community about the CPRB.

To be effective, the CPRB needs to improve public engagement. The CPRB proposes the following specifically:

1. Making the CPRB website more user friendly;
2. Having all CPRB meetings live streamed on the City of Iowa City Facebook page (and posted about on that page in advance),
3. Holding community forums twice a year,
4. Having basic CPRB contact info printed on the back of every police officer card. (The suggestion was offered during our 2020 Community Forum by one of the longtime community members who just recently learned of the CPRB);
5. Having funds to host other awareness activities from time to time; and,
6. Having information about the CPRB services provided to every community member at the time they are issued a citation or at the time they are released from custody in the event they were arrested.

c. Additional comments/concerns for consideration

None.

d. Additional sources relevant to the proposed change

The Eugene, OR CRB Code states that its board is to “conduct outreach activities and disseminate information throughout the community” and “seek open, candid and non-defensive dialogue with stakeholders to both educate and learn from different communities in Eugene.” (EUGENE CIVILIAN REVIEW BOARD POLICIES and PROCEDURES MANUAL)^{xx}

X. PROPOSED CHANGE 10 –COMPLAINANTS SHALL HAVE ACCESS TO A LAWYER AND SOCIAL WORKER/MEDICAL PROFESSIONAL WITH TRAUMA AWARENESS TRAINING FOR PURPOSES OF ASSISTING COMPLAINANTS THROUGHOUT THE COMPLAINT PROCESS.

a. Proposed Change 10 –

The CPRB proposes that community members have access to both legal counsel and a social worker or other medical professional with trauma awareness training for purposes of facilitating and assisting complainants with a CPRB complaint throughout the complaint process.

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b. Reasoning for the proposal

It is reasoned that community members file complaints against officers because they believe they have been wronged. It is therefore important to acknowledge that the experience may have been traumatic for a complainant. Indeed, some community members have reported the trauma from the underlying event, and a separate trauma from fear associated with reporting the complaint, including fear of retaliation, fear of sharing a personal traumatic event, and fear of their claims being judged as either validated or invalidated. Such trauma deserves a trained professional to help a complainant at the outset of the complaint process and through to its resolution.

It should be recognized that in CPRB complaints, there is an inherent imbalance of power due to the complaints being against an officer who has several advantages including access to reports and information, familiarity with procedures and personnel, and levels of tort immunity. While the CPRB tries to be accessible to all members of the community and strives to make the complaint process as straight forward as possible, the process can be daunting and pose certain challenges. This may be especially true for marginalized populations such as community members that are undocumented, unhoused, sex workers, drug users, and/or formerly incarcerated. Put simply, some members of the community simply do not have the capacity or resources to file an effective complaint. Having access to legal counsel would greatly assist community members with the filing of complaints. They will be informed of legalities, have clarity of the process, as well as other assistance that would greatly enhance the complaint process.

c. Additional comments/concerns for consideration

At least some members of the CPRB are of the opinion that If Iowa City provides the complainant services such as use of a lawyer and/or social worker/medical professional with trauma awareness training, that the mere act of providing such services would be an admission of culpability by the City on behalf of the ICPD for its alleged conduct in any complaint. Further, such services could be laying a foundation for a complainant to initiate legal actions against an officer and/or Iowa City regardless of the actual merits of a complaint.

The majority of the CPRB believe that Iowa City can provide the legal and medical services for a complainant without acknowledging culpability. To the contrary, legal counsel and trauma/medical professionals for the complaint process in some instances might facilitate a more thorough and meaningful resolution of an incident for a complainant – regardless of the complaint being sustained or even filed. Having assistance to understand the events and processes might reduce the need for additional litigation and draw a sense of closure and completeness to the incident in which the community member perceived to be harmed.

d. Additional sources relevant to the proposed change

- Evidence suggests that individual-level secondary prevention interventions aimed at bolstering resilience and reducing the likelihood of adverse effects following trauma are effective.” (authors & Magruder).^{xxi}
- “Trauma affects how victims see themselves” and “these beliefs affect how victims respond to services and the criminal justice system and underscore the importance of task forces taking a

trauma-informed approach, not only through service delivery but also throughout the investigation" process. (Human Trafficking Task Force e-Guide)^{xxii}.

- "Public health impact of trauma exposure is staggering for both communities and individuals" and that "the social environment can stimulate recovery after trauma." (authors & Magruder).
- "The perception of social support has been found to be an influential factor for the effects of traumatic events on the individual as well as the community" (Kleber, 2019)^{xxiii}.
- "Many suggest that a true public health approach requires mental health integration beyond primary care to include sectors such as education, justice, welfare, and labor through partnerships with government, non-governmental organizations, and the faith-based community." (Collins, Insel, Chockalingam, Daar, & Maddox, 2013; Ko et al., 2008) Providing a professional trained in trauma awareness to complainants would be a step towards such integration.
- Urbana, Illinois Community Police Review Board has a designated representative to provide mental support and other relevant assistance with the complaint process for the complainant. ([https://www.city.urbana.il.us/Agendas - Packets - Minutes/Agendas 2006/07-10-2006/Citizen Police Review Ordinance Draft.pdf](https://www.city.urbana.il.us/Agendas-Packets-Minutes/Agendas-2006/07-10-2006/Citizen-Police-Review-Ordinance-Draft.pdf)). See, also: Columbia, Missouri (<https://www.como.gov/law/wp-content/uploads/sites/5/2016/04/CPRB-Brochure.pdf>), Dallas, Texas (<http://mothersagainstpolicebrutality.org/wp-content/uploads/2018/03/Task-Force-Report-on-Citizen-Review-of-Police-15-February-2017-FINAL.pdf>).

XI. PROPOSED CHANGE 11 – EXPAND THE MEMBERSHIP OF THE CPRB FROM FIVE TO SEVEN OR NINE MEMBERS, WITH AN EMPHASIS ON MINORITY REPRESENTATION AND REPRESENTATION FROM A CURRENT OR FORMER MEMBER OF THE POLICE OR POLICE POLICY EXPERT.

a. Proposed Change 11 –

The CPRB requests to change its membership from the current five-member-board to having seven or nine members. In selecting from candidates for the CPRB, an emphasis shall be placed on persons being of a minority race, requiring at least four of the members shall be from a minority race. Further, it should be made mandatory that at least one member be a current or former member of the police force or otherwise considered an expert in police procedures and/or police policies.

b. Reasoning for the proposal

Having additional members increases the diverse opinions of the board, will disperse the workload, and allow for larger subgroups to meet without constituting a quorum and triggering the public meeting requirement. As is, the current members are volunteering time to review individual complaints. This almost always entails watching hours of video footage, possible additional investigations, procedural discussions, voting, report writing, and review of report before its filing. Members also review various police ordinances and policies, as well as quarterly reports from the police. Besides this, members are tasked with writing public forum reports, and, from time to time, having various sub-committees for purposes of completing tasks. Presently, subcommittees can only be comprised of two members as more would entail a forum requiring a public meeting. There is a large

time and workload commitment required of the CPRB members. Proposed change outlined in this document would only increase, in some cases dramatically, the amount of work being carried by a five-member volunteer board. With additional members, the individual burden would be lessened.

With regards to the composition being favorable to minority groups, this stems from an agenda to help achieve racial equality in the justice system. Objective data points to clear racial disparities in policing on a statewide and national level. Having a minimum composition of members from minority groups for overseeing the police would help protect minority interests in the carrying out of CPRB reviews. The Board feels there should be no less than three members who are of a minority race if the CPRB is increased to seven members, and no less than four members who are of a minority race if the CPRB is increased to nine members for its composition.

To help ensure fairness and equity in the review process, the recommendation that one member of the board have a police background shall become mandatory. It is important that, when reviewing police conduct, someone with police experience and training be consulted. If there were concerns over objectivity, perhaps the residency requirements for this member should be waived, and/or a police procedure expert be retained for the CPRB to consult with regularly during the closed sessions.

c. Additional comments/concerns for consideration

None.

d. Additional sources relevant to the proposed change

None.

XII. PROPOSED CHANGE 12 - CPRB complaints should be permitted whether filed anonymously or through third persons so long as there is sufficient knowledge of the underlying circumstances.

a. Proposed Change 12 –

The CPRB is requesting that complaints be permitted whether they are filed anonymously or through third persons without naming individual complainant, so long a sufficient personal knowledge of the underlying circumstances is alleged in the complaint.

b. Reasoning for the proposal

The purpose of the CPRB is to provide effective community oversight of the ICPD. If information can be brought forward to help identify instances of misconduct without the need of the person who was perceived to have been harmed being personally named, the CPRB procedures should allow it, provided there are sufficient safeguards against unfounded complaints being filed. Allowing for anonymity may well remove a very real obstacle preventing community members from filing complaints: fear of public humiliation and/or retaliation by those implicated in the complaint. This could especially be true with several marginalized members of the community including those that are undocumented, unhoused, sex workers, drug users, and/or those formerly incarcerated. These members statistically have a higher number of interactions with the police and are more likely to be

subject to police misconduct. This change would provide some assurances that they can file a complaint without retaliation.

Perception of fairness and equity is also important for the community members to have faith in the CPRB system. Currently, for a CPRB complaint, the identity of the complainant is disclosed while the identity of an officer implicated in a complaint of misconduct is not. This seems inequitable, especially considering the inherent power imbalance in filing a complaint against a police officer, and can be resolved with the option to file anonymously.

To protect against unfettered complaints being filed against officers, a threshold requirement for the complainant to allege sufficient facts to demonstrate the complainant has personal knowledge of the underlying circumstances alleged in a complaint should be put in place.

c. Additional comments/concerns for consideration

Some members of the CPRB are fearful that allowing a complaint without the identity of the complainant and their respective attestation to the truth of the statements (the current system), will open the floodgates for frivolous complaints. Those minority members believe the CPRB complaint process could be used to harass officers and deter them from interacting with certain members of the community that might try to use the process to retaliate against officers themselves.

The majority of the CPRB believes that the safeguard of requiring demonstration of personal knowledge of the events will check potential abuses. Another procedural safeguard that could be put in place would be to give the CPRB authority to summarily dismiss a complaint if there is not enough credible information in the filing of an anonymous complaint. Further, until abuses of frivolous complaint filing occurs with regularity, the majority of the CPRB believes the benefits for incorporating this change outweigh the costs.

Additional concerns have been raised about the procedural issues anonymous complaints will raise. For example, how will the Chief of Police/City Manager and the CPRB contact the complainant to inform them of the steps in the process? It is understood that as part of the Chief's obligations under the current ordinance, Chief must interview a complainant; something that cannot be done if the complainant is anonymous.

The majority members believe that there could be procedural changes such as a liaison contact or some requirement for contact information to be disclosed to the CPRB but remain confidential to the police and public. Currently, the officer's identity is kept confidential in the complaints. There may be solutions akin to the confidentiality measures for the officers that could be extended to a complainant that would allow for anonymous complaints to be filed without procedural technicalities that would make them impossible.

d. Additional sources relevant to consideration of the proposed change

- The National Association For Civilian Oversight of Law Enforcement (NACOLE) supports anonymous reporting and complaints of police misconduct may be filed anonymously in: Cleveland, OH^{xxiv} xxv
- Anonymous reporting in Seattle, WA^{xxvi}
- Anonymous reporting in Wolcott, CT^{xxvii}

XIII. PROPOSED CHANGE 13 – THE STATUTE OF LIMITATION FOR FILING A CPRB COMPLAINT SHALL BE LENGTHENED FROM 90 DAYS AFTER THE DATE OF THE ALLEGED MISCONDUCT, TO 180 DAYS AFTER THE ALLEGED MISCONDUCT.

a. Proposed Change 13 –

The CPRB requests that the timeline for allowing a member of the community to file a complaint with the CPRB be extended from 90 days after the underlying incident of misconduct alleged in the complaint to 180 days from the same.

b. Reason for the proposal

When a community member has had an interaction with an officer that may warrant the filing of a complaint, there needs to be time to process the occurrence, and perhaps handle other ways the encounter impacted them including loss of job, criminal charges, and trauma. The CPRB believes 180 days from the date of the alleged incident better accommodates complainants with those circumstances. The CPRB further believes that such an extension still preserves the recency of the events so that memories may be recalled and evidence gathered.

c. Additional comments/concerns for consideration

Some members of the CPRB support having no statute of limitations. In support they site the trauma and fear that may be associated with being a victim of police misconduct that would take perhaps several years or more to bring forward. The majority of the CPRB members, however, believe the 180 days is a better balance between allowing sufficient time to file a complaint and the ability to investigate a complaint with recent evidence.

d. Additional sources relevant to the proposed change

For comparison, the deadline to file a complaint to either the Iowa Civil Rights Commission or the Iowa City Office of Equity and Human Rights is 300 days.^{xxviii}

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^{iv} 2020. [online] Available at: <<https://www.lvmpd.com/en-us/Pages/InternalAffairs-CitizenReviewBoard.aspx>> [Accessed 28 October 2020].

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- ^{ix} Nicholl, C. 2000a. *Community Policing, Community Justice, and Restorative Justice*. Washington, DC: Government Printing Office.
- ^x Walker, Samuel, Carol Archbold and Leigh Herbst, *Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders Web Version* (Washington, DC: Government Printing Office, (2002)
- ^{xi} MSEI. 2020. *About Us - MSEI*. [online] Available at: <<https://mediateiowa.org/about-us/>> [Accessed 6 November 2020].
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- ^{xiv} Coping with Police Misconduct in West Virginia: Citizen Involvement in Officer Disciplinary Procedures—A Review of Existing Law, Legislative Initiatives, and Disciplinary Models. (n.d.). Retrieved September 12, 2020, from <https://www.usccr.gov/pubs/sac/wv0104/main.htm>
- ^{xv} Usccr.gov. 2020. *Chapter 4: Alternative Models For Police Disciplinary Procedures*. [online] Available at: <<https://www.usccr.gov/pubs/sac/wv0104/ch4.htm>> [Accessed 6 November 2020].
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- ^{xvii} Dennis, R. and Yee, G., 2020. [online] Available at: <https://www.postandcourier.com/news/north-charleston-awards-contract-for-long-awaited-race-bias-audit-of-police-force/article_9841779e-09a6-11eb-b038-cb026ceed72b.html> [Accessed 2 November 2020].
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^{xxv} City of Cleveland Office of Professional Standards Civilian Police Review Board. (n.d.). Retrieved October 11, 2020, from http://www.clevelandohio.gov/sites/default/files/ops_publications/OPS_BrochureEnglish.pdf

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