



# MEMORANDUM

384-2456

May 04, 2011

TO: Mayor and City Council

FROM: Todd Rent, Human Relations Officer

RE: Reauthorization of the Ordinance Establishing a Civilian Police Review Board

## **BRIEF DESCRIPTION OF THE ITEM**

Attached are proposed revisions to the Ordinance Establishing a Civilian Police Review Board which expires on May 31, 2011. No council action is required at this time except to forward the proposed ordinance to the Council meeting of May 16, 2011 for action on that date.

## **BACKGROUND**

Section 19-40 of the Civilian Police Review Board Ordinance, recently amended to grant an extension for review and reauthorization requires that a review and reauthorization process be completed by May 31, 2011. As you are aware, the review process seeks input from community stakeholders in regards to the CPRB Ordinance. As such, the review process proceeded as follows:

February 23, 2011	Letter to Urbana's civic and community leaders soliciting Written Public Comment
April 6, 2011	Special Meeting of the Civilian Police Review Board to Receive Public Input
April 14, 2011	Special Meeting of the Civilian Police Review Board to Review Recommendations Proposed in Public Input Process

With the review process completed, the Human Relations Office hereby submits proposed revisions for your review. Your packets contain (1) a legal memorandum discussing the proposed ordinance revisions, (2) the proposed ordinance revisions, (3) a strikeout version of the amended ordinance, and (4) written public comments.

## **ORDINANCE REVISIONS**

**Filing Requirements:** In its current form, Section 19-28(g) sets forth a (45) forty-five working day time limit for filing a complaint. The section extends the filing deadline for individuals who are "physically unable to file because he or she has been hospitalized, incarcerated or called to active military duty". The proposed ordinance revision would (1) delete the specific list of conditions (i.e. hospitalized, incarcerated, etc.) required to

qualify as physically unable to file and (2) require that the individual “demonstrate” that he or she was physically unable to file. This revision is intended to allow anyone with a bona fide reason to qualify for a filing deadline extension.

Also, the revised ordinance adds a final time limit of (1) one year for the filing of all complaints, regardless of the complainant’s physical inability to file. This revision is intended to ensure that complaint investigations are conducted within a reasonable time following the incident giving rise to the complaint. Without such a provision, complaints could be filed years after the initial incident.

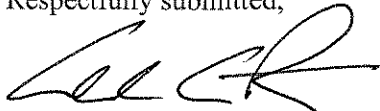
Limitation on Issues Reviewed by the Board: Section 19-32(q), as proposed, adds language that limits the scope of the Board’s jurisdiction. Specifically, the provision states that the Board “shall have no jurisdiction over complaints relating to in-court proceedings”. The revision is intended to avoid a circumstance in which the Board would be required to make a determination on an issue of law that a court has already reviewed or could have reviewed upon the appropriate request by a complainant.

Sunset Provision: Section 19-40 currently sets forth a date by which the ordinance must be reviewed and reauthorized. The proposed ordinance revision would delete this section. This revision is intended to make further reauthorization unnecessary.

**RECOMMENDATION**

Staff recommends approval of the attached ordinance revisions.

Respectfully submitted,



Todd Rent  
Human Relations Officer

Attachments: Legal Memorandum

Proposed Ordinance Revisions

Amended Ordinance (Strikeout Version)

Written Public Comments (Champaign Urbana Citizens for Peace and Justice, Ministerial Alliance of Champaign-Urbana and Vicinity)

Agenda and Minutes from the Special Meeting of the Civilian Police Review Board to Review Recommendations Proposed in Public Input Process



LEGAL DIVISION  
(217) 384-2464  
FAX: (217) 384-2460

## MEMORANDUM

To: Mayor Laurel Prussing; Urbana City Council  
From: Michelle Brooks *MB*  
Re: Civilian Police Review Board Reauthorization Ordinance  
Date: May 3, 2011

Pursuant to Section 19-40 of Article III, Chapter Nineteen of the City of Urbana Code of Ordinances, the Civilian Police Review Board (hereinafter "CPRB") is currently scheduled for review and reauthorization on or before May 31, 2011. Upon review of the current CPRB Ordinance (hereinafter "the Ordinance"), the following revisions<sup>1</sup> are respectfully submitted to the CPRB for consideration:

1. Section 19-28(g).

The Council may wish to indicate that the burden of showing a physical inability to file a complaint within the initial forty-five days following the incident giving rise to the complaint rests with the complainant, thereby removing the obligation of the CPRB to investigate the question of a complainant's incapacity. Additionally, the provisions allowing for late filing due to hospitalization, incarceration or active military service should be deleted. Considering the fact that the CPRB accepts complaints filed via U.S. mail, it should not be assumed in the prior three circumstances that a complainant would be unable to file a complaint in a timely manner. If in any of those three situations a complainant is constrained from

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<sup>1</sup> A copy of the proposed revised CPRB Ordinance is attached to this memo. Only those sections of the Ordinance to which changes are suggested are included.

utilizing mail services for various reasons (e.g. a comatose state, segregation to solitary confinement, deployment to a classified/restricted access area respectively), those circumstances would, in fact, meet the definition of “physically unable to file”. Moreover, listing specific circumstances to define “physically unable to file” implies that the list is all-inclusive, and that it is possible that a situation where one is physically unable to file might arise that does not fit into any of those three categories.

Adding an immutable cut-off date before which all complaints must be filed also may warrant consideration. Even if the above revision is incorporated, in its current state the Ordinance could arguably allow for a complainant to file at any point in time after the subject incident, no matter how remote. As such, in ten years time the CPRB could be tasked with reviewing an incident that occurred today. Relevant witnesses, including any officers named in the complaint could, very likely, be unavailable to the CPRB for any number of reasons (e.g. transfer to another agency, relocation, illness, death, etc.) Additionally, one should consider whether it is fair to ask an officer to remember the details of, account for, and justify actions taken that long ago. Accordingly, a statute of repose of one year for the filing of complaints would be not only practical but equitable.

2. Sec. 19-28(q).

There are myriad reasons for the proposed addition of this section. To illustrate these reasons, please consider the following hypothetical:

A person (hereinafter “the complainant”) is placed under arrest by an officer (hereinafter “the officer”) with the Urbana Police Department (hereinafter “UPD”). At some point during custodial questioning subsequent to that arrest, the complainant invokes his 5<sup>th</sup> Amendment rights and refuses to participate in the interrogation. The State’s Attorney elects to file criminal charges in that case. At arraignment, the complainant is assigned a public defender. While his case is pending in court, the complainant files a complaint with the CPRB, alleging that the officer was rude to him during the officer’s initial contact with him, illegally seized his property, illegally searched that property, and violated his 5<sup>th</sup> Amendment rights during questioning. The complainant also files a civil suit against the officer, UPD and the City of Urbana. The criminal case proceeds to trial, during which the officer testifies. The complainant is found guilty. Subsequent to that trial, the complainant files an additional complaint alleging the officer perjured himself at trial. The complainant appeals his criminal conviction and both the Appellate and Supreme Court uphold that conviction. The civil case is found to be without merit and is dismissed.

Were the CPRB to investigate the issue of whether or not the complainant's 4<sup>th</sup> and 5<sup>th</sup> Amendment rights were violated, it would be invading the providence of the court system. In a criminal context, the complainant has the ability to seek adjudication of and relief from those alleged violations through pre-trial motions to dismiss, motions to suppress and motions in limine. In a civil context, adjudication of and relief from violations of complainant's constitutional rights by the officer should be pursued through a §1983 action. Those determinations both require findings of fact and findings of law, and the court system, in which both sides of the argument are advocated for by attorneys and the process is governed and reviewed by judges, is the proper forum in which to make them.

Were the CPRB to investigate the allegation of perjury, it would be placing itself in a position to make findings of fact and law regarding the veracity of the officer's testimony. To do this, it would not only need to know and determine the true facts of the case, but also determine what the officer said at trial and the officer's frame of mind at the time. While transcripts of the testimony could arguably be obtained easily, the actual testimony in question would have been observed by the complainant in a context where the complainant had the ability to have an attorney appear and advocate on his behalf. This attorney would have had the opportunity to both question and attempt to impeach the officer, as well as make any objections or motions the attorney deemed appropriate. Moreover, the State's Attorney has an affirmative obligation not to offer any evidence that is false, including testimonial evidence. Were the officer actually believed to have perjured himself, the appropriate remedy would be prosecution in a separate criminal proceeding.

Additionally, our court system provides for appellate review of proceedings. In the event the CPRB were to accept the complaint in the above hypothetical and investigate, what would be the result if the CPRB disagreed with the trial, appellate and supreme courts' rulings? Would the CPRB issue an opinion contrary to those of the courts, and, if so, what remedy could it provide in those scenarios? Accordingly, in a situation such as the one presented above, the CPRB should decline to investigate any portions of the complaint that relate to any in-court proceedings. Therefore, the CPRB would be authorized to investigate the allegation of rudeness in the first complaint, but would disregard the other allegations of the first complaint and as well as the second complaint in its entirety.

Finally, as a cautionary note, it bears remembering that should a complainant be a party in a criminal proceeding, they have certain constitutional protections. Under the 6<sup>th</sup> Amendment, should the complainant have legal representation, the government, including members of UPD, are barred from communicating with the complainant

outside of the presence of his legal counsel. In the event the complainant is a party in a civil proceeding involving the City, employees of the City should not contact the complainant to discuss matters that would directly relate to the merits of the civil case. The primary investigator involved in CPRB cases is most often a member of the Urbana Police Department and the complainants themselves are certainly one of the witnesses most critical to the investigation. In one of the aforementioned scenarios, the CPRB would be constrained from utilizing any member of UPD for interviewing the complainant. More remote of an argument, but one that could still conceivably be asserted, is that, as a board that is authorized and empowered by the City of Urbana, the CPRB itself is a *de facto* agent of the City. As such, the CPRB should continue its practice of suspending investigations involving complainants who are also defendants in a criminal case during the pendency of criminal proceedings, or who are parties to a case involving the City or any of its employees, staff or agents in civil court.

3. Sec. 19-40.

The Council may wish to delete this provision. The CPRB has been shown to serve a valuable purpose in the community and in the event that any future changes in the functions or operations of the CPRB are required, those issues can be brought before Council and addressed at any time. A sunset clause is no longer necessary.

Accordingly, it is respectfully submitted that the City Council give consideration to making the foregoing changes to the Ordinance.

AN ORDINANCE AMENDING CHAPTER NINETEEN, ARTICLE III OF THE URBANA CITY  
CODE  
(CIVILIAN POLICE REVIEW BOARD)

WHEREAS, the Mayor has established a Special Citizens' Task Force to study the desirability and feasibility of creating a Civilian police review board; and

WHEREAS, this Task Force has studied various proposals, examined data on police complaints from many different cities, and vigorously debated the issues relating to the structure and operation of a Civilian police review board; and

WHEREAS, the Task Force has submitted a proposal for the consideration of the Mayor and the City Council for the creation of this Civilian police review board; and

WHEREAS, this proposal has been the subject of extensive public debate and consideration through several public hearings before the City Council; and

WHEREAS, the Mayor and the City Council have determined that a Civilian police review board will enhance public safety by providing an independent means to review citizen complaints regarding police officer conduct and the operations of the City of Urbana Police Department; and

WHEREAS, the Mayor and the City Council hereby establish a Civilian police review board with the recognition that all people in the City deserve protection of their civil rights and respect for their fundamental human dignity.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Section 1. Urbana City Code, Chapter 19, "Police", is hereby amended with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

ARTICLE III. CIVILIAN POLICE REVIEW BOARD

...  
Sec. 19-28.

...  
(g) Complaints shall be filed within 45 working days of the date of the incident, giving rise to the complaint, unless the complainant can demonstrate that the complainant is physically unable to file a complaint within 45 working days. ~~because he or she has been hospitalized, incarcerated or called to active military duty.~~ In such a case, the complaint must be filed within 15 calendar days of the date the person becomes physically able to file, ~~or no longer incarcerated or in military service.~~ Under no circumstances however, shall any complaint be filed more than one (1) year after the date giving rise to the complaint.

...  
Sec. 19-32.

(q) The CPRB shall not have jurisdiction over complaints relating to any in-court proceedings.

...

~~Sec. 19-40. [Deleted] This Ordinance shall be subject to review and reauthorization by April 30, 2011. The review shall include public hearings and written comment from a broad cross-section of the Urbana community as well as the Police Department, the Human Relations Commission, the City Attorney, and the CPRB, itself. The purpose of the review is to evaluate the strengths and weaknesses of the present ordinance, and determine what changes, if any, are appropriate to the ordinance in the interest of strengthening police community relations.~~

...

Section 2. If any provision or part thereof of this Article III, or application thereof to any person or circumstance, is held invalid, the remainder of the Article and the application of the provision, or part thereof, to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 3. All ordinances, resolutions, motions, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 4. This ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the city council of the City of Urbana, Illinois at a regular or special meeting of the council.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2011.

Ayes:

Nays:

Abstentions:

\_\_\_\_\_  
Phyllis Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor



**AN ORDINANCE REAUTHORIZING A CIVILIAN POLICE REVIEW BOARD WITHIN THE  
CITY OF URBANA**

WHEREAS, the Mayor has established a Special Citizens' Task Force to study the desirability and feasibility of creating a Civilian police review board; and

WHEREAS, this Task Force has studied various proposals, examined data on police complaints from many different cities, and vigorously debated the issues relating to the structure and operation of a Civilian police review board; and

WHEREAS, the Task Force has submitted a proposal for the consideration of the Mayor and the City Council for the creation of this Civilian police review board; and

WHEREAS, this proposal has been the subject of extensive public debate and consideration through several public hearings before the City Council; and

WHEREAS, the Mayor and the City Council have determined that a Civilian police review board will enhance public safety by providing an independent means to review citizen complaints regarding police officer conduct and the operations of the City of Urbana Police Department; and

WHEREAS, the Mayor and the City Council hereby establish a Civilian police review board with the recognition that all people in the City deserve protection of their civil rights and respect for their fundamental human dignity.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:**

Section 1. The Code of Ordinances, City of Urbana, Chapter 19, "Police" is hereby amended by adding the following Article thereto:

**ARTICLE III. CIVILIAN POLICE REVIEW BOARD**

**Sec. 19-20. Establishment and Purpose**

A Civilian Police Review Board (CPRB) is hereby established to:

- (a) Provide a systematic means by which to achieve continuous improvement in police community interactions;
- (b) Provide oversight of internal police investigations through review of such investigations;
- (c) Provide an independent process for review of citizen complaints;
- (d) Oversee a monitoring system for tracking receipt of complaints lodged against sworn officers;
- (e) Add a citizen perspective to the evaluation of these complaints;
- (f) Contribute to timely, fair and objective review of citizen complaints; and
- (g) Provide fair treatment to and protect the rights of police officers.

**Sec. 19-21. Composition**

- (a) The CPRB shall consist of seven (7) members appointed by the Mayor with the approval of the City Council.
- (b) Members shall serve for a three (3) year term. However, at the inception of the Board, two (2) members shall be appointed for a one (1) year term, two (2) members for a two (2) year term, and three (3) members for a three (3) year term, so that terms are staggered.
- (c) The Mayor shall designate the Chair and a Vice-Chair of the Board.
- (d) A majority of the sitting members of the CPRB shall constitute a quorum.
- (e) Members shall serve until their successors are appointed and confirmed, unless removed by the Mayor in accordance with Sec. 19-25(e).

Sec. 19-22. Qualifications for Membership

- (a) Members of the CPRB shall reside in the City of Urbana, and shall possess a reputation for fairness, integrity and a sense of public service.
- (b) No City employee may be appointed to the Board, nor shall any member be a current employee of, contracted by or have any official affiliation, whether current or former, with a federal, state, or local law enforcement agency.
- (c) No person with a criminal felony conviction or plea shall be eligible to serve on the CPRB.
- (d) In making appointments, the Mayor shall endeavor to reflect community diversity, including different neighborhoods, income levels, ethnicity, age, gender and experience.

Sec. 19-23. Training and Orientation

The Human Relations Office (HRO) shall develop written standards for orientation and continuing education for all CPRB members. The written standards shall be subject to the approval of the Mayor and Council. Completion of the orientation program is required before a member is seated. Timely completion of continuing education is required for all sitting members.

Sec. 19-24. Rules and Procedures

The CPRB in consultation with the Legal Division and HRO shall establish rules and procedures for the transaction of CPRB business.

Sec. 19-25. Member Responsibilities

- (a) Members shall conduct themselves at all times in a manner that maintains public confidence in the fairness, impartiality and integrity of the CPRB. Further, members shall refrain from prejudging or making any comments, prejudicial or otherwise, regarding any pending complaint, on-going investigation, complainant or police officer.
- (b) Members shall maintain absolute confidentiality with respect to confidential or privileged information in perpetuity. CPRB members shall not disclose, in whole or in part or by way of summary, any information made available pursuant to Sec. 19-26(a). This provision is not intended to prohibit CPRB members from expressing opinions regarding (1) general patterns and trends, (2) procedural

matters, (3) any information that has been previously released as a public record, and (4) any other non-confidential or non-privileged information discussed in the course of CPRB proceedings and/or deliberations.

- (c) No member shall have ex parte communications with any third party regarding any complaint under active review.
- (d) A member shall recuse himself or herself from consideration of any complaint in which the member has a personal, professional, or financial conflict of interest.
- (e) A violation of any of these provisions may constitute grounds for immediate removal of the member at the discretion of the Mayor, except that violation of subsection (c) of this section shall constitute grounds for immediate dismissal.

Sec. 19-26. Record and Information Access

- (a) The CPRB shall have access to relevant case-specific records including but not limited to documents and testimony gathered in the course of the Police Department's investigation. To the extent that the following items were not gathered in the course of the Police Department's investigation, the CPRB, by a majority vote shall have access to police reports, incident-related documents such as schedules, dispatch tapes and transcriptions, citations, video recordings, and photographs; records of interviews with complainants, employees, and witnesses; and external documents such as medical records as provided for under the HIPAA Privacy Rule, expert opinions, and receipts. Information released under this subsection shall be redacted and/or withheld by the City Attorney or his/her designee to ensure compliance with all federal, state and local privacy laws and regulations. The City Attorney or his/her designee shall also have discretion to redact or withhold any information that may, in his/her judgment, unduly compromise a victim's privacy or compromise an ongoing law enforcement investigation. In the event that the City Attorney decides to withhold such case-specific records, he/she shall provide a written response which sets forth the nature of the document(s) withheld and the reasons for withholding the document. Such decision may be appealed to the Mayor upon a majority vote of the CPRB.
- (b) In the event that any medical records of an officer are disclosed to the CPRB in connection with the Board's review of a complaint, the subject officer shall be notified in writing of the disclosure of such records.

Sec. 19-27. Reports

- (a) The CPRB shall:
  - (1) Maintain a central registry of complaints.
  - (2) Collect data and provide an annual report to the Mayor and City Council which shall be public and shall set forth the general types and numbers of complaints, location of the incident(s) giving rise to the complaints, disposition of the complaints, the discipline imposed, if any, and complainants' demographic information. The report shall contain a comparison of the CPRB's findings and conclusions with the results of investigations and actions taken by the Police Department. Public reports shall not include the names of complainants or police officers.

- (3) Have authority to make recommendations to the Police Chief, Mayor and City Council regarding Police Department policies and practices, based on its consideration of information received.

#### COMPLAINT PROCEDURES, INVESTIGATION AND MEDIATION.

##### Sec. 19-28. Definition of Complaints; Filing of Complaints

For the purposes of this Ordinance, a "complaint" is a written allegation of misconduct lodged against a sworn police officer.

- (a) Complaints concerning police conduct may be filed at the Police Department or the Urbana Human Relations Office.
- (b) Complaints shall be made in writing using a Citizen Complaint Form created by the CPRB in cooperation with the Chief of Police. A complainant shall be furnished with information regarding the complaint process and the rights of complainants prior to, or as part of the filing process.
- (c) A complaint shall be a sworn statement attesting to the truthfulness of the allegations made. Complaint forms shall contain a written statement that anyone making willfully or intentionally false allegations within the sworn complaint may be subject to prosecution. An explanatory statement shall state that a finding that the complaint is unfounded or not sustained shall not necessarily be construed as a false statement.
- (d) Complaints shall be based upon a first-hand account either by the person involved in the incident or a witness to the incident, except that a minor shall be represented by a parent or guardian in all matters pertaining to the complaint.
- (e) Complainants may opt to dictate complaints to HRO. Dictated complaints must be read back to the complainant, verified by the complainant and signed by the complainant.
- (f) Complainants shall receive a copy of the submitted complaint at the time of filing.
- (g) Complaints shall be filed within 45 working days of the date of the incident, giving rise to the complaint, unless the complainant can demonstrate that the complainant is physically unable to file a complaint within 45 working days. because he or she has been hospitalized, incarcerated or called to active military duty. In such a case, the complaint must be filed within 15 calendar days of the date the person becomes physically able to file, ~~or no longer incarcerated or in military service.~~ Under no circumstances however, shall any complaint be filed more than one (1) year after the date giving rise to the complaint.
- (h) The CPRB shall be notified within seven (7) working days of the filing of the complaint.
- (i) Complaints filed at the Urbana Human Relations Office shall be forwarded to the Police Department within (7) working days.
- (j) All complaints shall be submitted to the CPRB within (7) working days of the filing date.
- (k) Upon receipt of a complaint, the Police Department shall conduct a timely investigation of the complaint and shall report the findings to the complainant and to the CPRB. The Police Department shall send all notices regarding the complaint via certified letter. Complainants shall receive confirmation that their complaint has been received within fourteen (14) days. Every reasonable effort shall be made to resolve the complaint within forty-five (45)

working days. In the event that it is not resolved in forty-five (45) working days, a status report shall be mailed to the complainant every thirty (30) working days until the complaint is resolved. The department shall conclude its investigation prior to consideration by the CPRB.

- (l) The CPRB shall provide the Mayor and Council with a quarterly report of all open or pending internal investigations.
- (m) Once the Police Department has reported its findings to the complainant and to the CPRB, the complainant shall have the option of appealing those findings to the CPRB in accordance with the procedures set forth in Sec. 19-32.
- (n) The CPRB shall not have jurisdiction over allegations about non-sworn officers such as the animal control officer, parking enforcement personnel or police service representatives.
- (o) Complaints concerning incidents pre-dating the first convening of the Board will not be accepted.
- (p) Harassment, retaliation, or retribution for filing a complaint or testifying on behalf of a complainant will not be tolerated. Such allegations shall be reported to the Human Relations Officer for appropriate investigation and follow-up.
- (q) The CPRB shall not have jurisdiction over complaints relating to any in-court proceedings.

#### Sec. 19-29. Mediation Notice.

Upon receiving a complaint, the CPRB shall notify the complainant of a mediation option and invite the complainant to submit the complaint to mediation.

#### Sec. 19-30. Mediation Process.

- (a) Requests for mediation may be submitted in writing to the CPRB by the complainant or the police officer(s) at any time in the review process. Mediation shall proceed as soon as reasonably possible.
- (b) Mediation shall proceed only upon agreement of both parties;
- (c) Mediation shall be conducted at no cost to the complainant or officer(s) by trained or experienced mediators from among a list selected by the City or a conflict resolution program approved by the City. The mediator shall have experience dealing with law enforcement related issues.
- (d) Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties. Where these mediation sessions result in resolution of the dispute, the mediator shall inform the CPRB and Chief of Police in writing within five (5) working days. Terms of the resolution may be reported to the CPRB and the Chief of Police only upon the express written approval of the parties;
- (e) In conducting the mediation, the mediator may suggest avenues toward resolution but may not impose an outcome on the parties;
- (f) Mediation sessions shall be closed to the public. Matters discussed shall be confidential unless both parties agree otherwise as part of a written mediation settlement.
- (g) If the complainant is a parent of a child who is the alleged victim of police misconduct, the parent may bring the child to the mediation session. A minor who is the alleged victim of misconduct must bring a parent or guardian to the mediation session.

Sec. 19-31. [Reserved]

Sec. 19-32. Appeal of Police Department Findings to the CPRB

- (a) If the complainant is not satisfied with the determination of the Chief of Police at the conclusion of an internal investigation, he or she may file an appeal to the CPRB within thirty (30) calendar days from the date of receipt of the notice of the findings.
- (b) Upon receipt of an appeal, the Board shall hold an initial hearing to set dates to hear the case within 45 working days. If the Board is unable to hear the matter within 45 days, the Board shall provide written basis to the complainant and the Police Department for the extension of time needed for the appeal to be heard.
- (c) Internal investigation reports shall not be subject to public disclosure or use in other legal proceedings.
- (d) Hearings shall be conducted in closed session and members of the CPRB shall keep confidential all matters disclosed during hearings.
- (e) A non-union member of the Police Department Command Staff shall be appointed by the Chief of Police to participate as an advisor to the Board during all hearings of complaints. This officer must not have been involved in the incident(s) giving rise to the complaint under review. At the complainant's request, the Chief of Police shall select another officer to advise the CPRB during the review process.
- (f) The complainant shall be provided the opportunity to make a statement to the CPRB which details the basis of the appeal.
- (g) The Chief of Police or his/her designee shall be provided an opportunity to explain the basis for the Police Department's findings and conclusions.
- (h) The CPRB shall weigh the facts and reach a conclusion based on the preponderance of the evidence.
- (i) The CPRB findings and conclusions may not be used as evidence in any other criminal or civil court proceeding to the extent that the City has the ability to declare such an intention through adoption of this Ordinance. However, this provision shall not constitute a bar to disciplinary action against a police officer based on the Police Department's own investigation of an officer's conduct.

#### ADMINISTRATION AND ENFORCEMENT

Sec. 19-33. Findings and Conclusions

At the conclusion of each appeal under Sec. 19-32, the CPRB shall render one of the following findings based on the preponderance of the evidence;

- (a) **Not Sustained:** Where the members determine that the Chief's finding is not supported by the evidence.
- (b) **Sustained:** Where the members determine that the Chief's finding is supported by the evidence.
- (c) **Remanded for Further Investigation:** Where the members find, by a majority vote, that there exists new, relevant evidence that was not presented to, or investigated by, the Chief of Police or his/her designee and that it is in the community's best interests to do so, it may remand a matter back to the Chief for further investigation or consideration.

- (d) **No Finding:** Where the complainant failed to produce information to further the investigation; the complainant withdrew the complaint; or the complainant is unavailable to clarify the complaint.
- (e) **Mediated:** Where the complaint was successfully mediated pursuant to Sec. 19-30.

Sec. 19-34. Report to the Chief of Police

- (a) At the conclusion of its review, the CPRB shall forward its written findings and conclusions to the Chief of Police and to affected officers, and, to the extent permitted by law, to the complainants. To the extent permitted by law, the written findings and conclusions shall be a public record. Such records shall not identify subject officers. If the findings of the CPRB and of the Chief of Police differ, the Board and the Chief shall discuss their differences and the basis for the different findings. A thorough and objective written summary of this discussion shall be transmitted to the Mayor by HRO within ten (10) working days of the discussion.
- (b) The CPRB shall have no authority over police disciplinary matters.

Sec. 19-35. Quarterly Meetings

- (a) The CPRB shall conduct quarterly meetings that provide the general public with an opportunity to voice concerns and to provide recommendations for improving interactions between the Police Department and the community
- (b) The CPRB shall hold its first quarterly meeting within thirty (30) days after a quorum of its members has completed the orientation program.
- (c) CPRB quarterly meetings shall be open to the public except when closed as provided in the Open Meetings Act and all other applicable federal, state and local laws.

Sec. 19-36. Conduct of Complaint Review

- (a) In conducting a review, the CPRB shall:
  - 1. Be provided with full access to case-specific records and tangible evidence subject to the limitations of Sec. 19-26;
  - 2. Hear a statement from the Complainant stating the basis for appeal;
  - 3. Hear a statement from the Chief of Police or his/her designee describing the investigation and determinations of the Police Department;
  - 4. Have the power to:
    - i. Subpoena witnesses, and case-specific records and tangible evidence, subject to the limitations set forth in Sec. 19-26;
    - ii. Administer oaths;
    - iii. Take testimony; and
    - iv. Exclude witnesses;
- (b) No Police Officer who shall be required to appear or be subpoenaed to testify before the Board.
- (c) Witnesses shall be questioned only by members of the CPRB;
- (d) The entire review on a single complaint shall be concluded on a single occasion unless the CPRB determines otherwise based on good

cause. The Board may discontinue its review of a complaint for lack of interest if the complainant fails to attend the hearing without good cause;

- (e) No fewer than ten (10) business days before a scheduled hearing, the CPRB shall provide notice to all interested parties via certified mail.

#### Sec. 19-37. Suspension of Proceedings

CPRB review of any complaint shall be suspended at the request of the Chief of Police or City Attorney where a separate criminal investigation is underway or if a civil action against the City is threatened, underway or pending. Upon the conclusion of the Police Department's investigation of a complaint and the conclusion of any separate legal proceedings, the CPRB may resume or undertake its review if the complainant still wishes to proceed. The CPRB will honor all requests from the Police Department or from the complainant to suspend proceedings until the conclusion of any pending criminal or civil case related to the complaint.

#### Sec. 19-38. Information Sharing

The CPRB shall forward to the Chief of Police any new case-specific information it obtains, during the course of a review, concerning an incident subject to a citizen complaint. Similarly, during the course of a CPRB review, the Chief of Police shall forward to the CPRB in writing any new case-specific information the Chief obtains after the Internal Affairs review has been concluded and submitted to the CPRB concerning an incident subject to a citizen complaint.

#### Sec. 19-39. Community Outreach

- (a) The CPRB shall work with the Police Department, Human Relations Office and Human Relations Commission to anticipate and prevent problems, including analyzing data and making recommendations to the Police Department about issues requiring special attention.
- (b) The CPRB is empowered to periodically study and issue reports to the corporate authorities about police/community relations, racial profiling, and other issues which relate to community climate.
- (c) The CPRB and HRO shall develop a brochure explaining CPRB procedures and the rights of complainants. The brochures shall be prepared and distributed to the public according to a plan developed by the CPRB and approved by the Mayor and the City Council. Appropriate information on the CPRB and its procedures shall also be posted on the City's website and available through the Police Department, the City Clerk's office, and the Urbana Free Library.
- (d) The CPRB and HRO shall develop a brochure a "Know Your Rights" poster to be displayed prominently within the Police Department. The poster shall provide information on (1) the right of citizens to make complaints, and (2) the right of citizens to have a complaint reviewed by the CPRB.
- (e) The CPRB and HRO shall develop and distribute complaint forms in languages and formats accessible to citizens, educate the community on the complaint process and the importance of reporting complaints.



- (f) All materials distributed to the public under subsections (c) and (d) of this section shall contain, in a prominent typeface, the following statement: "Harassment, retaliation, or retribution for filing a complaint or testifying on behalf of a complainant will not be tolerated. If you believe that you are the subject of harassment, retaliation or retribution as a result of the complaint process, please contact the Human Relations Officer for appropriate investigation and follow-up."
- (g) The CPRB may hold periodic meetings with neighborhood groups, civic organizations, and/or community leaders to discuss community concerns relating to public safety and police procedures.

~~Sec. 19-40. [Deleted] This Ordinance shall be subject to review and reauthorization by April 30, 2011. The review shall include public hearings and written comment from a broad cross-section of the Urbana community as well as the Police Department, the Human Relations Commission, the City Attorney, and the CPRB, itself. The purpose of the review is to evaluate the strengths and weaknesses of the present ordinance, and determine what changes, if any, are appropriate to the ordinance in the interest of strengthening police community relations.~~

Sec. 19-41. Budget.

The CPRB, in conjunction with HRO, shall annually submit a budget to the mayor. Such budget shall show those funds that are deemed necessary by the board to implement its duties under this article.

Section 2. If any provision or part thereof of this Article III, or application thereof to any person or circumstance, is held invalid, the remainder of the Article and the application of the provision, or part thereof, to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 3. All ordinances, resolutions, motions, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 4. This ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the city council of the City of Urbana, Illinois at a regular or special meeting of the council.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2011.

Ayes:

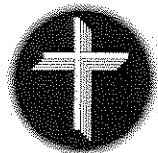
Nays:

Abstentions:

\_\_\_\_\_  
Phyllis Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor



**The Ministerial Alliance of Champaign-Urbana & Vicinity**  
**P. O. Box 6693**  
**Champaign, IL 61826**

April 6, 2011

Todd Rent  
Human Relations Officer  
City of Urbana  
400 South Vine Street  
Urbana, IL 61801

Dear Mr. Rent:

The Ministerial Alliance of Champaign-Urbana and Vicinity (MACUV) submit's the following comments to be included in the Civilian Police Review Board's (CRPB) Review and Reauthorization Process and reflected in the final revised Ordinance in the city of Urbana.

Part of the mission of the Ministerial Alliance, which has been in existence for over 70 years, has been to evaluate and address problems as they affect our ministry and community and give input and support as needed. With that said, we believe the input addressed in this letter will bring about positive changes and lead to better solutions for our community with respect to police and community relations.

1. All complaints from citizens concerning police conduct whether filed in person at the Police Department or the Urbana Human Relations Office or resolved in other any form such as mediation should be recorded, documented, and assessed equally as a formal complaint for the process to accurately reflect the numbers of complaints made, what occurred, and how the complaint was handled. This information should be made available on a regular basis to identify unfavorable conduct.
2. Section 19-22 c states, "No person with a criminal felony conviction or pleas shall be eligible to serve on the CPRB." In order for appointments of the CRPB to reflect diversity, individuals from the community who have felonies should be allowed to serve on the board and should not be denied the opportunity to serve. The ordinance states "...all people in the City deserve protection of their civil rights and respect of their fundamental human dignity." Felons are part of the community, they have paid their debt to society, and they are involved in the community in various organizations and outreaches and have become working and tax paying citizens.
3. Empower the CRPB to subpoena witnesses in the process of collecting information and records related to a case or investigation, so that they will have the opportunity to collect any necessary facts or information outside of the regular investigation. Currently the CRPB's authority is limited to only the testimony and information gathered in the course of the Police Department's investigation.

A final comment of clarification is regarding the procedure to file a complaint against the Chief of Police. This information is not addressed in the ordinance as such, but may be noted or highlighted in other administrative documentation for the City of Urbana and would be beneficial to know for future reference as part of the entire process.

**WORKING TOGETHER FOR A BETTER COMMUNITY**

"By this shall all men know that ye are my disciples, if you have love one for another" (John 13:35)

We appreciate the opportunity to have input on this very important issue which impacts the community at large, and we pray that our comments will be reflected in the final revised ordinance as the CRPB review and reauthorization is completed.

Yours in Christ,

On Behalf of the MINISTERIAL ALLIANCE OF CHAMPAIGN-URBANA & VICINITY

Rev. Melinda R. Carr, President

Rev. Vanessa Buchanan, Secretary

P. O. Box 6693  
Champaign, IL 61826  
Telephone: 217-714-2435



March 24, 2011

Todd Rent  
Human Relations Officer  
City of Urbana

Re: Civilian Police Review Board Review and Reauthorization Process  
Solicitation for Comment

Dear Mr. Rent,

Please accept the following comments from CUCPJ into the public record. As an active local community organization vested in protecting citizen's rights and securing equal justice under the law for all citizens, we strongly advocate that the following changes be made to the CPRB ordinance. We believe these changes will strengthen and improve the ordinance thus insuring the intent and purpose of the CPRB will be secured and actualized for the benefit of the public.

**1. All citizen complaints involving Urbana police officers made in person at the Human Relations Office and/or Urbana Police Department should be documented and reported monthly to the CPRB.**

Currently only written complaints filed in either office are officially documented and reported. Because some citizens are discouraged from filing a written complain and many others are resolved quietly and informally, these complaints go unreported. Only documenting and reporting written complaints skew the true reality of citizen/police interaction in our community. This is a disservice to both the public and UPD. The information as it is currently collected is simply incomplete, misleading and basically useless; for it fails to accurately convey the reality of citizen/police complaints and interactions in our community.

**2. A person possessing a past felony conviction should not be denied the opportunity to serve his community on the CPRB.**

CUCPJ believes this exclusionary language is discriminatory in nature and thus impedes the opportunity of many Urbana citizens to serve their community. Appointments to any Commission or Board acting on behalf of the City and/or the people of Urbana should be based on the person's merit and commitment to serve the community. Religious belief, race, gender, ethnicity, age or criminal record in and of themselves should not prevent a qualified person from serving his/her city on local boards or commissions.

**3. The CPRB must have the power to subpoena witnesses and collect testimony in the process of conducting its investigation of a complaint.**

CUCPJ believes that without this legal authority, the CPRB is disempowered in its ability to conduct a fair, thorough and comprehensive investigation by denying it the ability to collect all necessary facts and testimony relating to a complaint.

**An Additional Concern:**

CUCPJ is concerned with the apparent undue influence the Office of Human Relations seems to have on the deliberations and decision-making process of the CPRB. Certainly for boards to be functional and to do their work, city staff support is necessary to provide clerical, legal, and consultative assistance. But there is a growing concern that the Office of Human Relations has crossed the fine line of support to one of directing. Because the Office of Human Relations works closely and personally with the Mayor's Office and UPD, there can easily arise a conflict of interest that impedes its ability to address citizen complaints against the police. Whose interest becomes primary in the mind of the Office of Human Relations; the citizen's, the UPD's, or the city's? The CPRB must be encouraged to retain complete autonomy and independence when making decisions and recommendations. Also the Office of Human Relations must be careful not to cross the line of offering support to one of controlling and directing the activities of CPRB.

Committed to peace and justice in our community.

On Behalf of Champaign Urbana Citizens for Peace and Justice,

Durl Kruse



**NOTICE OF SPECIAL MEETING**

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**URBANA CIVILIAN POLICE REVIEW BOARD  
REVIEW AND REAUTHORIZATION  
ORDINANCE REVIEW AND RECOMMENDATIONS MEETING**

**DATE:** Thursday, April 14, 2011  
**TIME:** 5:30 P.M.  
**PLACE:** Urbana City Council Chambers  
Urbana City Building  
400 South Vine Street  
Urbana, Illinois 61801

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**AGENDA**

1. **CALL TO ORDER, ROLL CALL, AND DECLARATION OF QUORUM**
2. **APPROVAL OF MINUTES OF APRIL 6, 2011 SPECIAL MEETING**
3. **EXPLANATION OF PURPOSE**
4. **PUBLIC PARTICIPATION**
5. **RECOMMENDATIONS FROM PUBLIC INPUT MEETING**
  - a. **MEMBERSHIP REQUIREMENTS OF CIVILIAN POLICE REVIEW BOARD: A RECOMMENDATION THAT MEMBERSHIP OF THE BOARD BE OPEN TO INDIVIDUALS CONVICTED OF FELONIES**
  - b. **MEMBERSHIP REQUIREMENTS OF CIVILIAN POLICE REVIEW BOARD: A RECOMMENDATION THAT MEMBERSHIP OF THE BOARD BE OPEN TO INDIVIDUALS CONVICTED OF FELONIES AND RETIRED/FORMER LAW ENFORCEMENT OFFICERS**
  - c. **RECORDKEEPING AND REPORTING REQUIREMENTS: A RECOMMENDATION THAT THE BOARD RECORD AND REPORT BOTH FORMAL (AS DEFINED BY THE ORDINANCE) AND INFORMAL COMPLAINTS**
  - d. **RIGHTS TO ISSUE SUBPOENA: A RECOMMENDATION THAT THE BOARD BE EMPOWERED TO SUBPOENA WITNESSES IN THE PROCESS OF COLLECTING INFORMATION AND RECORDS RELATED TO A CASE OR INVESTIGATION**

**NOTE: SECTION 19-36(a)(4)(i)**

6. **ADJOURNMENT**

## **MINUTES OF A SPECIAL MEETING**

### **URBANA CIVILIAN POLICE REVIEW BOARD**

**DATE:** April 14, 2011

**TIME:** 5:30 p.m.

**PLACE:** Urbana City Council Chambers  
Urbana City Building  
400 South Vine Street  
Urbana, Illinois 61801

**MEMBERS PRESENT:** Tom Costello, Scott Dossett, Diane Gottheil, Grace Mitchell,  
James McNeely, Ivy Williams

**STAFF PRESENT:** Todd Rent, Human Relations Officer

**OTHERS PRESENT:** Michelle Brooks, Assistant City Attorney  
Patrick Connolly, Chief, Urbana Police Department

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#### **1. CALL TO ORDER, ROLL CALL, AND DECLARATION OF QUORUM**

The meeting was called to order at 5:31 p.m. by Chair Tom Costello. Mr. Costello declared a quorum to be present.

#### **2. APPROVAL OF MINUTES**

With regards to the draft minutes of the special meeting of April 6, 2011, Ms. Mitchell made a motion to approve said minutes as presented. Mr. McNeely seconded the motion. There was no further discussion. Chair Costello called for a voice vote. All voted aye. The motion carried unanimously and the minutes of the April 6, 2011 special meeting were approved as presented.

#### **3. EXPLANATION OF PURPOSE**

Mr. Rent explained that the purpose of this meeting was for the Board to discuss and vote upon recommendations borne of the public input session of April 6, 2011.

#### **4. PUBLIC PARTICIPATION**

There was none.



**5. RECOMMENDATIONS FROM PUBLIC INPUT MEETING**

- A. MEMBERSHIP REQUIREMENTS OF CIVILIAN POLICE REVIEW BOARD: A RECOMMENDATION THAT MEMBERSHIP OF THE BOARD BE OPEN TO INDIVIDUALS CONVICTED OF FELONIES**
- B. MEMBERSHIP REQUIREMENTS OF CIVILIAN POLICE REVIEW BOARD: A RECOMMENDATION THAT MEMBERSHIP OF THE BOARD BE OPEN TO INDIVIDUALS CONVICTED OF FELONIES AND RETIRED/FORMER LAW ENFORCEMENT OFFICERS**

The above two items were discussed concurrently by the Board.

Mr. Dossett made a motion that the ordinance authorizing the Civilian Police Review board be amended to include language opening membership on the board to individuals convicted of felonies and retired/former law enforcement officers. Ms. Gottheil seconded the motion. Discussion among members of the Board and City staff ensued. Following discussion, Chair Costello called for a roll-call vote. Roll was taken and the votes were as follows:

Costello:	no	Mitchell:	no
Dossett:	yes	McNeely:	yes
Gottheil:	yes	Williams:	no

With three Board members in favor and three opposed, Chair Costello noted that upon his appearance before City Council on this matter, he would advise the Council that this was a 3:3 vote.

- C. RECORDKEEPING AND REPORTING REQUIREMENTS: A RECOMMENDATION THAT THE BOARD RECORD AND REPORT BOTH FORMAL (AS DEFINED BY THE ORDINANCE) AND INFORMAL COMPLAINTS**

Mr. Dossett made a motion that the ordinance authorizing the Civilian Police Review Board be amended to require that the Board record and report both formal (as defined by the ordinance) and informal complaints. Ms. Gottheil seconded the motion. Discussion among members of the Board and City staff ensued; the discussion centered upon the difficulty in defining an “informal” complaint as well as the difficulty in recording and reporting of the same. Regarding the latter, Chief Connolly provided input to the Board. Questions and comments from the Board were addressed by Chief Connolly and Mr. Rent.

Following discussion, Chair Costello called for a roll-call vote. Roll was taken and the votes were as follows:

Costello:	no	Mitchell:	no
Dossett:	no	McNeely:	no
Gottheil:	no	Williams:	no

The motion failed unanimously.

**D. RIGHTS TO ISSUE SUBPOENA: A RECOMMENDATION THAT THE BOARD BE EMPOWERED TO SUBPOENA WITNESSES IN THE PROCESS OF COLLECTING INFORMATION AND RECORDS RELATED TO A CASE OR INVESTIGATION (NOTE: SECTION 19-36(a)(4)(i))**

Questions and comments from members of the Board on this recommendation were addressed by Mr. Rent. There was no motion made with regards to this recommendation; Chair Costello declared this recommendation annulled due to lack of a motion.

Further questions and comments from the Board were addressed by Mr. Rent and Ms. Brooks.

**6. ADJOURNMENT**

There being no further business to come before the Board, Mr. McNeely made a motion that the meeting be adjourned. Chair Costello seconded the motion. With no further discussion, the meeting was adjourned at 6:39 p.m.