

**INTER-OFFICE COMMUNICATION
CITY OF GAINESVILLE****DATE:** 11/26/01

TO: Honorable Mayor and Members of the Commission

FROM: Public Safety Committee
Commissioner Chuck Chestnut, Chair
Commissioner Warren Nielsen, Member

RE: #001081 Citizens Review Board for the Police Department

Recommendation:

The Public Safety Committee recommends 1) the City Commission hire an outside consultant to conduct a comprehensive review of the Gainesville Police Department's performance and procedures, and 2) at the same time, allow the continuation of dialogue of Commissioner Chestnut's draft document, entitled "Citizen Advisory Review Board", by retaining this referral with the Public Safety Committee, and 3) allow the consultants report to be brought back to the Public Safety Committee for discussion, prior to further action with regard to the "Citizens Advisory Review Board" proposal.

Explanation:

On March 12, 2001, the City Commission referred to the Public Safety Committee "the issue of creating a citizens review board, and agenda this item after the Grand Jury investigation is completed."

Five public hearings have been held with the Public Safety Committee as follows: July 17th, August 16th, September 20th, October 18th and November 20th.

The Public Safety Committee heard from numerous citizens, both for and against a citizens review board for the police department. The Committee also allowed for open comments and presentations by Gainesville Police Department staff, the Fraternal Order of Police, the Citizens for Police Review members, the State Attorney for the 8th Judicial Circuit, and again, members of the community.

There were extensive discussions surrounding documents entered into the record. Some of those documents included: "Proposed Ordinance, Amended July 11, 2001" presented by the Citizens for Police Review (2 amendments were put into the record), "Overview of

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Citizen Review Processes and Expenses”, presented by GPD; “Alternative Police Complaint Initiation Process” and “Police Complaint Appeal Board”, presented by City Staff; and “Citizens Advisory Review Board”, presented by Commissioner Chestnut.

Due to the complex and sensitive nature of this referral and the interest generated by both proponents and opponents of a citizens review board, the committee desires to seek first the determination that a problem does exist within the police department that would warrant such a board, and to then ascertain the best mechanism to resolve that problem.

Citizen Advisory Review Board:

The Citizen Advisory Review Board shall review cases that have been internally investigated by the Police Department as a result of a citizen complaint or otherwise have received a high level of community interest. If the citizen disagrees with the finding of the Police Department's Internal Affairs Division, at that time, the citizen will have the opportunity to appeal the Internal Affairs' Investigation or Chief's decision. In order to facilitate this process, the City Commission shall create a Citizen Advisory Review Board.

- 1) **Composition:** The Board shall be comprised of five (5) responsible and interested residents of the City appointed by the Commission. At least one member of this Board should have extensive familiarity with police policy and procedures, as well as the investigative process (union representative advisory capacity).
 - a) The Commission may appoint a Chairperson, or delegate that selection to a membership vote.
 - b) All membership is strictly voluntary and non-compensatory.
 - c) Due to the sensitive nature of the material reviewed, the members shall undergo and pass a personal background screening prior to appointment to the Board. At the discretion of the City Clerk, the background screening will be conducted by the Police Department's Personnel Services Division and/or the Human Resources Department.
 - d) Members shall be trained by the City Attorney's Office in the basics of police internal affairs procedures and methods, so they gain an understanding of their role in the appeal process. They shall further receive training in appropriate legal considerations, such as Sec. 112.532, Florida Statutes (Law Enforcement Officers' Rights) and the Police Department's policy and procedures.
 - e) The civilian members of the Board shall attend Citizen's Police Academy.
 - f) The Board shall be racially, geographically, gender and age diverse in nature in order to reflect the representative composition of the City of Gainesville's population.
 - g) Citizens who have complaints concerning the conduct of sworn police officers of the Gainesville Police Department can file complaints with the Police Department. If citizens do not wish to file the complaint with the Department, they have the option of registering their complaint(s) with the Equal Opportunity Department at City Hall, or may elect to file with the Alachua County Equal Opportunity Department and the Florida Commission on Human Relations.

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- h) The Gainesville City Auditor shall review or investigate the process by which the Police Department accepts and investigates complaints and report on the results of the review to the City Commission every three years.
- 2) **Convention:** The Board will convene only upon the activation of the appeal process or if the complaint has received a high level of community interest.
- a) Members may, by consensus or at the direction of the Chair, call interim meetings to keep abreast of information relevant to the functioning of the Board. No official action may occur, however, unless convened for the purposes of an appeal process.
 - b) All business will be conducted in accordance with the public records and open meeting requirements of Florida Statutes.
 - c) The Equal Opportunity Director shall provide staff support to the Board.
- 3) **Function and Duties:** The Board will hear appeals from citizens not satisfied with the decisions reached by the Chief of Police regarding the outcomes of internal investigations. Appeals shall be filed by the citizen with the Board through the Equal Opportunity Department.
- a) The Board will hear involved members of the Office of Internal Affairs present their investigation to the Board. Board members may ask questions to clarify issues or points of interest. The review will be limited to the investigation under review, as well as related police training, procedures, methods, rules, etc.
 - b) The decision of the Citizen Advisory Review Board shall be advisory only to the City Manager. Upon review of the investigation, the Citizen Advisory Review Board shall render one of the following decisions by majority vote:
 - i. **Sustained.** The investigation produced evidence to substantiate the allegation of an act which was determined to be misconduct.
 - ii. **Not Sustained.** The investigation failed to produce evidence to either prove or disprove the allegation.
 - iii. **Exonerate.** The allegation did in fact occur, but the actions of the employee were legal, justified, proper and in conformance with City policy and procedure.

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- iv. **Unfounded.** The allegation concerned an act by an employee which did not occur.
 - v. **Defer Case for More Information.** This will be the decision when the citizen review board determines insufficient factual evidence to render a decision.
 - vi. The Board may only find individual police officers at fault if the Board determines that the police officer violated current police policy or procedures. If the Board finds that an officer followed policy and procedure, however, the Board disagrees with the particular policy or procedure, the Board may indicate that in the response to the Chief.
 - vii. If the Board disagrees with the decision of the Chief, the Board will provide written notice to the Chief, who will review the Board's recommendation, revisit the related case and decide whether to retain or change the original decision. Either way, the Chief will provide a written response to the Board, the officer involved and the complainant in order to close the appeal process.
 - viii. If the Board agrees with the decision of the Chief, the Board will provide written notice of this action to the Chief, the officer involved, and the complainant in order to close the appeal process.
- c) The Board shall compile a report subsequent to the completion of each appeal process, outlining the actions taken to review the case, the Board's decision, the methods and reasoning by which the decision was reached, the recommendation to the Chief and the Chief's response. The report will be provided to the City Manager, who will provide a copy to the Chief and to the City Commission and Clerk for inclusion in the public records of the City. The format for this report shall be standardized for consistency.
- d) The Citizen Advisory Review Board shall be established by City Ordinance.

If the Board's decision is v. (above), the Board must state what additional information they require.

In reviewing completed case(s), the Board will use the Police Department's policies and procedures in effect at the time of the alleged incident to determine whether the officer adhered to these policies. If the Board determines that the officer acted within department policies and procedures, but believes that the policy should be modified, then

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the Board may make a recommendation for the policy to be changed and/or modified as necessary.