

**ORDINANCE NO. 2015-01-003**

**AN ORDINANCE AUTHORIZING THE URBANA POLICE DEPARTMENT TO PURCHASE TASERS AND FOR CIVILIAN POLICE REVIEW BOARD OVERSIGHT OVER DEPLOYMENT AND USE OF TASERS**

(TASER Ordinance)

WHEREAS, the City of Urbana, an Illinois municipal corporation, (hereinafter, the “City”) is a home rule entity pursuant to Article 7, § 6 of the Constitution of the State of Illinois and 65 ILCS 5/1-1-10; and

WHEREAS, the City is responsible for protecting the lives, health, safety, and property of its citizens and businesses and those who visit the City; and

WHEREAS, the City has established and maintains a Police Department in order to protect the lives, health, safety, and property of the City’s residents and businesses and those who visit the City; and

WHEREAS, the City recognizes that its Police Department must continue to adapt to meet and address new demands placed upon the Police Department in protecting the lives, health, safety, and property of the City’s residents and businesses and those who visit the City; and

WHEREAS, the City recognizes the tools available to law enforcement nationwide have evolved and/or increased so that police departments have more tailored tools to address the various risk situations to which members of the Police Department are subjected; and

WHEREAS, the City Council deems it appropriate to authorize the Police Department to purchase TASERS in order to allow members of the Police Department access to an alternative to the use of lethal force (firearms) in those incidents where lower levels of response to resistance tactics are unsuccessful and/or unfeasible; and

WHEREAS, the City Council recognize that the use of TASERs by the Police Department is of significant interest to citizens of the City; and

WHEREAS, the City Council recognizes that civilian oversight concerning the deployment and use of TASERs is appropriate; and

WHEREAS, by reason of Ordinance No. 2011-05-034 (Urbana City Code Sec. 19-20 *et seq.*), the City established and maintains a Civilian Police Review Board (hereinafter, the “CPRB”) to –

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

WHEREAS, the City Council deems it appropriate to amend Ordinance No. 2011-05-034 (Urbana City Code Sec. 19-20 *et seq.*) in order to confer authority on the CPRB to generally review the Police Department’s compliance with proper directives, policies, practices, procedures, and protocols concerning the deployment and use of TASERs and, where appropriate, make recommendations to the Mayor and/or the City Council regarding the same.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois as follows:

Section 1. The Urbana Police Department shall be and hereby is authorized, to the extent funds are or may become available, to purchase TASERs for those Urbana Police Officers who satisfactorily complete Crisis Intervention Team training.

Section 2. Chapter 19, Article III, Division 1, Section 19-20 shall be and hereby is amended by adding a new sub-section (h) which shall provide –

Generally review the display and deployment of TASERs by the Urbana Police Department and, where appropriate, make recommendations to the Mayor, the City Council, and the Chief of Police concerning their display and use.

Section 3. Chapter 19, Article III, Division 1, Section 19-25 shall be and hereby is amended by redesignating sub-section (e) as sub-section (f) and adding a new sub-section (e) which shall provide –

Members shall generally review incident reports and, where the members deem appropriate, make recommendations to the Mayor, City Council and Chief of Police concerning the display and use of TASERs provided by the Police Department without regard to the individual identities of the Urbana Police Officers who display or use TASERs or the individuals who have been threatened with or tased by a TASER by one or more Urbana Police Officers.

Section 4. Chapter 19, Article III shall be and hereby is amended by adding a new Division 4 entitled “Review of TASER Displays” which shall be in the form and substance appended hereto and made a part hereof as Exhibit A.

Section 5. Chapter 19, Article I shall be and hereby is amended by adding a new Section 19.3. entitled “Display of TASERs” which shall provide as follows:

Section 19-3. – User of TASERs.

Those Police Officers who are specially and specifically trained in the proper use of TASERs shall be permitted to carry, display and discharge TASERs in a manner which is consistent with Police Department directives, policies,

procedures, practices, and/or protocols, as the case may be, concerning the carrying, displaying, and discharging of such TASERS. No Police Officer shall carry, display or discharge any TASER unless and until the Police Department has adopted directives, policies, procedures, practices, and/or protocols concerning the proper display and discharge of TASERS and until he or she has completed training in the use of such devices.

Section 6. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

Section 7. The City Clerk is directed to publish this Ordinance and cause the appropriate sections of Chapter 19, Police, of the Urbana City Code to reflect the amendments as hereinabove stated and set forth.

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, at a regular meeting of said Council on the \_\_\_ of \_\_\_\_\_, 201\_ at which a proper quorum was present.

PASSED by the City Council of and for the City of Urbana, Illinois this \_\_\_\_ Day of \_\_\_\_\_, 201\_ with the “ayes” and “nays” being recorded as follows:

AYES: \_\_\_\_\_.

NAYS: \_\_\_\_\_.

ABSTENTIONS: \_\_\_\_\_.

\_\_\_\_\_  
Phyllis D. Clark, City Clerk.

APPROVED by the Mayor this \_\_\_\_\_ Day of \_\_\_\_\_, 201\_.

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



**LEGAL DIVISION**

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**DATE: JANUARY 5, 2015**  
**TO: MAYOR AND CITY COUNCIL**  
**CC: CHIEF CONNOLLY, HRO TODD RENT**  
**FROM: James L. Simon, City Attorney**

**RE: Amendment to the Human Rights Ordinance to Confer Authority on the CPRB to Review TASER Displays and Uses.**

The Legal Division and the Human Relations Office were requested by the Urbana Police Department ("UPD") to draft an amendment to Urbana City Code Chapter 19, Article III – Civilian Police Review Board in order to grant to the Civil Police Review Board ("CPRB") the authority to review displays and uses of TASERs by UPD Police Officers.

Urbana City Code Section 19-20(a)-(g) states the following as the CPRB's purpose:

- (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.
- (g) Provide fair treatment to and protect the rights of police officers.

Pursuant to Urbana City Code Section 19-27(3), the CPRB is authorized "to make recommendations to the Police Chief, Mayor and City Council regarding UPD policies and practices, based on its consideration of information received" in the process of reviewing citizen complaints concerning UPD Police Officer conduct. The draft ordinance included with this memorandum represents the Legal Division's and the Human Relations Office's effort to

provide a procedural mechanism by which the CPRB can review TASER displays and uses even in the absence of the filing of a specific citizen complaint. Neither the Legal Division nor the Human Relations Office was requested to provide nor did either provide input into the development or drafting of UPD practices, rules, regulations, procedures, or protocols governing how Police Officers may become qualified to carry TASERs or in their display or use.

The Legal Division and the Human Relations Office recognize that there may be certain legal ramifications in vesting authority in the CPRB to review the display and use of TASERs. Some of these ramifications are discussed below. The attached draft amendment to the CPRB ordinance (Urbana City Code Sec. 19-20 *et. seq.*) seeks to reduce these legal risks where feasible.

**a. Impact on Criminal and Civil Proceedings:** The Legal Division and the Human Relations Office had concerns that CPRB review of TASER display and use may have a negative impact or undue influence on criminal and civil proceedings where TASER use is an issue. Clearly, it is neither the goal nor the role of the CPRB to influence or directly affect the outcome of any criminal or civil proceeding, usurp the judicial process, or inadvertently compromise constitutional rights. Likewise, it is not the intent of the CPRB review process to generate evidence for either side in criminal proceedings and/or civil litigation. The proposed draft amendment to the CPRB ordinance attempts to reduce those risks where possible. The proposed draft ordinance requires the redaction of individual officer names and badge numbers from any consideration by the CPRB. (However, for purposes of review of incident reports involving the display and use of TASERs, officers will be identified with an anonymous identifier.) Further, the CPRB will not have any authority to discipline or recommend any discipline of any UPD Police Officer who is involved in a TASER incident. Likewise, in those instances where a criminal proceeding or civil lawsuit is initiated, the report of the incident leading to such proceedings would not be included in the group of incident reports to be reviewed by the CPRB until after all criminal or civil proceedings have concluded.

**b. Statute of Limitations Issues:** The Legal Division and the Human Relations Office also recognized that there may be times when recipients of TASER displays and uses may consider filing civil lawsuits concerning such incidents. The times when an individual may bring a civil action against the City or any one or more of its Police Officers vary depending on the specific recipient of a TASER display or use. The general statute of limitations period in which a prospective plaintiff has to file a personal injury lawsuit arising out the display and use of a TASER is two (2) years following the occurrence of the alleged injury. 735 ILCS 5/13-202. However, in the case of a minor or a legally disabled person, the two-year limitations period does not commence to run until the minor has achieved the age of majority or the disabled person's legal disability has been terminated, as the case may be. 735 ILCS 5/13-211. These periods may be extended out even further depending when the prospective plaintiff realized that he or she has suffered an injury as the direct or proximate result of a TASER display or use. This concept is known in the law as the discovery rule. *Aebischer v. Stryker Corp.*, 535 F.3d 732 (7th Cir. 2008). For example, a Police Officer may "tase" a sixteen year old not knowing that the child is in fact a minor. The child may not believe he or she suffered any permanent injury at

the time of the incident. It is possible that ten years later, the recipient of the “tasing” may begin to suffer post-traumatic stress syndrome which can be directly traceable to the use of the TASER. The two-year limitations period may commence to run at the time the individual begins to suffer PTSD. As another example, a person with a legal disability may have that disability terminated 30 years after he/she was “tased.” The two-year limitations period would commence to run upon the termination of that legal disability. The proposed draft ordinance minimizes any impact which the statute of limitations may create in connection with the CPRB’s review of TASER use. The report of the incident which led to the filing of the civil lawsuit would not be reviewed by the CPRB until all judicial proceedings have been completed.

**c. Creation of Documents Which Could be Sought Through FOIA:** Clearly, most, if not all, documents created in connection with the CPRB’s review of TASER displays and uses will be generally available under the Freedom of Information Act. 5 ILCS 140/1 *et seq.* One must remain mindful that any documents created by the City or any of its boards and commissions are “FOIAable”, subject to the exemptions contained in the statute. On the other hand, FOIA does provide the community with at least one means to become and remain informed regarding the UPD’s display and use of TASERS.

### **CONCLUSION**

Neither the Legal Division nor the Human Relations Office offers any recommendation on whether or not to adopt the proposed draft ordinance since such adoption is a matter of policy reserved to the corporate authorities (Mayor and City Council).

## EXHIBIT A

### **Sec. 19-42. – Purpose of CPRB Review of TASER Displays.**

The purpose of the CPRB's review of TASER displays is to afford the community, through the CPRB, a structure and a forum through which the community can be informed and express concerns about the display of TASER devices. For purposes of this Division 4, "display" shall mean and include the unholstering and/or discharge of a TASER device.

### **Sec. 19-43. – Limitations on CPRB's Review of TASER Display and Use.**

The CPRB shall review the Police Department's display of TASERs in the manner provided in this Division 4 and shall have the authority to make recommendations concerning amendments to Police Department practices concerning the display of TASERs. Except in the context of a citizen complaint under this ordinance, the CPRB shall have no authority to review the conduct of any individual Police Officer or any individual display of a TASER. 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 CPRB during all reviews of TASER displays. The aforesaid Command Staff individual must not have had any direct involvement in any of TASER incidents then under review by the CPRB. The CPRB shall have no authority to compel the appearance of any Police Officer at any meeting of the CPRB which is convened to review the display of TASERs.

### **Sec. 19-44. – Police Department Investigation.**

The Police Department shall investigate and review each incident involving the display of a TASER in the same manner as it investigates and reviews other forms of response to resistance. Following each review of a TASER display, the Police Department shall provide the one or more incident reports, along with such other information as the Police Department deems necessary and appropriate, to the Human Relations Officer as provide for in Section 19-45 of this Division.

### **Sec. 19-45. – Reporting to CPRB.**

(a) Subject to Section 19-50 of this Division, upon the completion of the incident reports involving five (5) TASER displays, the Police Department shall provide copies of the five (5) incident reports, together with such other information as the Police Department deems necessary and appropriate, to the Human Relations Officer. Prior to submitting the said incident reports, the Police Department shall redact all information which could otherwise be used to identify the specific individual(s) involved in the TASER display incident including, but not necessarily limited to the Police Officers name and badge number, the names of the individuals subjected to the TASER display, and the names of all witnesses to the incident involving the display of a TASER. Following the submission of the initial five (5) TASER incident reports and other information, if any, the Police Department shall continue to submit TASER incident reports in the manner provided herein and in groups of five (5) such reports with the aforesaid redactions made. The Police Department shall provide the reports in groups of five (5) reports, with the



aforesaid redactions made, within fourteen (14) calendar days after completion of the sixth investigative and review report.

(b) Within seven (7) calendar days following receipt by the Human Relations Officer of the five (5) Police Department TASER incident reports and other information, if any, the Human Relations Officer shall distribute copies of those incident reports and other information to the members of the CPRB. The Human Relations Officer shall otherwise maintain the confidentiality of the TASER incident reports, other information (if any) submitted with the said incident reports, and all information contained therein.

#### **Sec. 19-46. – CPRB Review of TASER Incident Reports.**

(a) The CPRB shall commence its review of the five (5) TASER incident reports and other information, if any, provided by the Police Department at the CPRB's next regularly scheduled meeting. The CPRB shall consider the information contained in the five (5) TASER incident reports and other information, if any, in the aggregate. Upon completion of its review of the five (5) incident reports, the CPRB may recommend amendments concerning the Police Department's practices concerning the display of TASERS and provide reasons therefore.

(b) The CPRB's recommendations, if any, and reasons therefore, shall be provided to the Human Relations Officer who shall prepare a report which contains those recommendations along with such other information which the Human Relations Officer deems necessary and appropriate.

(c) If the CPRB makes an recommendation concerning changes in practice in the display of TASERS by the Police Department, it shall provide reasons for each such recommendation.

(d) The Human Relations Officer shall provide the Chief of Police with a complete copy of the CPRB's report within seven (7) calendar days after completion of the CPRB report.

#### **Sec. 19-47. – Review of CPRB Report.**

The Chief of Police or his or her designee shall review and provide written comment on the CPRB's recommendations and report on the display of TASERS within fourteen (14) days of his or her receipt of the CPRB's said report and recommendations. Within fourteen (14) calendar days following completion of the Chief of Police's review of and comment on the CPRB report and recommendations, the Chief of Police or his or her designee shall provide the Human Relations Officer with a copy of the Police Chief's written review and comment. Such review and comment may include:

(a) any objection which the Police Department has to any statement or recommendation contained in the CPRB report and recommendations; and/or

(b) alternative recommendations to any recommendations contained in the CPRB report along with the reasons for any such alternative recommendations.

**Sec. 19-48. – Reports to the Mayor and/or City Council.**

In the event that the CPRB intends to provide the Mayor and/or City Council with a copy of its report and recommendations on the display of TASERs, the Human Relations Officer shall provide the Mayor and/or City Council, as the case may be, with a copy of the CPRB report and the Police Chief's written review and comment on such report.

**Sec. 19-49. – Incident Reports and Information Not Included for CPRB Review.**

(a) In the event that a citizen complaint regarding the display of a TASER is received by the City, the Police Department shall not include within any group of five (5) TASER-related incident reports the incident report or any other information involving the display of a TASER contained in the said citizen complaint which otherwise would be provided to the Human Relations Officer.

(b) In the event that a criminal proceeding or a civil proceeding is initiated which alleges the improper or unlawful display of a TASER, any Police Department incident report and other information related to the TASER display event shall not be included in any group of five (5) incident reports submitted by the Police Department to the CPRB for review until all criminal or civil proceedings, involving such event as the case may be, have been completed. Upon completion of all such criminal or civil proceedings, as the case may be, including any time for filing appeals thereof, the Police Department incident report concerning the display of the TASER involved in the incident shall be included with the next group of incident reports forwarded by the Police Department to the CPRB.

**Sec. 19-51. – Governing Rules.**

The CPRB shall adopt rules to implement this Division 4 and its Sections.

**Sec. 19-52. – Law Enforcement Process.**

All CPRB reviews of reports involving the deployment and/or discharge of TASERs shall be considered as part of the City's law enforcement process.

**Sec. 19-53. – Production of Documents.**

In the event any member of the CPRB or any person employed by the City receives a subpoena to produce documents, a request to produce documents, or a court order to produce documents issued in any pending civil or criminal proceeding which seeks the production of documents considered and/or reviewed by the CPRB in connection with the deployment and/or discharge of any TASER, such recipient shall promptly notify the Chief of Police and the City Attorney of such subpoena, request for document production, or court order.

**Sec. 19-54. Performance Review.**

The CPRB and the Police Department shall conduct a thorough evaluation of this Division 4 twenty-four (24) months after its effective date. The review process shall include an analysis of this Division 4's strengths, weaknesses and effectiveness. The CPRB and the Police Department shall tender written reports to the Mayor and the City Council summarizing their respective findings and recommendations. This report shall be tendered in a timely manner but not later than three (3) months after the commencement of the review and evaluation process.



Memorandum  
*Chief of Police*

TO: Mayor and City Council  
FROM: Chief Patrick Connolly  
RE: TASER Ordinance  
DATE: January 12, 2015  
CC: James Simon, City Attorney, HRO Todd Rent

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After 11 months of collaboration, and with a great deal of input from a host of people including, but not limited to; the Civilian Police Review Board, community members, civic groups, the legal office and the human relations office, the police department is prepared to move forward with purchase of TASERs.

I have previously shared with you all the information currently available on the topic. I have the funds allocated to train and equip six (6) Crisis Intervention Team (CIT) officers, and the ordinance and oversight have been established.

I would be redundant if I attempted to articulate any further justification. We are at a point where we need move forward with the project.