



# City of Cincinnati

801 Plum Street  
Cincinnati, OH 45202

## Agenda - Final

### Law & Public Safety Committee

*Chairperson Christopher Smitherman*  
*Vice Chair David Mann*  
*Council Member Betsy Sundermann*  
*Council Member Jan Michele Kearney*  
*Council Member Greg Landsman*  
*Council Member Steven Goodin*  
*Council Member Liz Keating*

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Wednesday, January 20, 2021

9:00 AM

Council Chambers, Room 300

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### PRESENTATIONS

#### No-Knock Warrants

Honorable Lisa C. Allen, Judge of the Hamilton County Common Pleas Court

#### Year-End Review/Hotspots in Cincinnati

Lisa Davis, Assistant Chief, CPD

Michael John, Assistant Chief, CPD

### AGENDA

- [202000865](#) **REPORT**, dated 08/05/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report for June 2020. (SEE DOCUMENT #201901197)  
  
**Sponsors:** City Manager  
**Attachments:** [Transmittal June 2020 MarijuanaCouncil](#)  
[91023 June 2020 Violations Chart](#)
- [202000751](#) **REPORT**, dated 6/17/2020, submitted by Patrick A. Duhaney, City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report for May 2020. (See DOC. #201901197)  
  
**Sponsors:** Smitherman, Landsman, Sittenfeld and Pastor  
**Attachments:** [REPORT](#)

3. [202000655](#) **REPORT**, dated 5/28/2020, submitted by Patrick A. Duhaney, City Manager, regarding Marijuana-Only Warnings/Citations/Arrest Monthly Report for March 2020. (REF. DOC. #201901197)
- Sponsors:** City Manager
- Attachments:** [202000655](#)
4. [202000648](#) **REPORT**, dated 5/28/2020, submitted by Patrick A. Duhaney, City Manager, regarding Marijuana-Only Warnings/Citations/ Arrests Monthly Report: April 2020 (SEE DOC. #201901197)
- Sponsors:** City Manager
- Attachments:** [REPORT](#)
5. [202000449](#) **REPORT**, dated 3/18/2020, submitted by Patrick A. Duhaney, City Manager, regarding Marijuana-Only Warnings/ Citations/Arrests for February 2020. (SEE DOC. #201901197)
- Sponsors:** City Manager
- Attachments:** [REPORT](#)
6. [202001094](#) **REPORT**, dated 9/2/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report, July 2020.
- Sponsors:** City Manager
- Attachments:** [July 2020 Council Report Memo 01197](#)  
[July 2020 Marijuana Warnings](#)
7. [202001485](#) **REPORT**, dated 9/16/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report, August 2020. (SEE DOC #201901197)
- Sponsors:** City Manager
- Attachments:** [Report](#)  
[August 2020 Marijuana Warnings](#)
8. [202001680](#) **REPORT**, dated 10/14/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Jurisdiction Agreements.
- Sponsors:** City Manager
- Attachments:** [Report](#)  
[2019 Mutual Aid Master](#)  
[Cincinnati Signed](#)

9. [202001818](#) **REPORT**, dated 10/14/2020, submitted by Paula Boggs Muething, Interim City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report, September 2020.
- Sponsors:** City Manager
- Attachments:** [Report](#)  
[September 2020 Marijuana Warnings](#)
10. [202001974](#) **COMMUNICATION**, submitted by Vice Mayor Smitherman, from Andy Wilson, Senior Advisor for Criminal Justice Policy, Office of Ohio Governor Mike DeWine, regarding the Ohio Revised Code Section that governs law enforcement's ability to obtain a "no knock" warrant.
- Sponsors:** Smitherman
- Attachments:** [Communication](#)
11. [202002015](#) **MEMO**, submitted by Andrew Garth, Interim City Solicitor and Kate Burroughs, Sr. Assistant City Solicitor, from Paula Boggs Muething, City Manager, on October 12, 2020, regarding Solicitor's opinion concerning No Knock Warrants.
- Attachments:** [202002015](#)
12. [202002064](#) **REPORT**, dated 11/12/2020, submitted by Paula Boggs Muething, City Manager, regarding a Motion to establish a task force aimed at solving issues around Livingston Avenue. (SEE REFERENCE DOC #202001432)
- Sponsors:** City Manager
- Attachments:** [Report](#)
13. [202002091](#) **REPORT**, dated 1/6/2021, submitted by Paula Boggs Muething, City Manager, regarding Citizen Complaint Authority Recommendations and CPD Improvement, Report 1. (SEE REFERENCE DOC #202001079)
- Sponsors:** City Manager
- Attachments:** [Report](#)
14. [202002138](#) **REPORT**, dated 12/16/2020, submitted by Paula Boggs Muething, City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report for October 2020.
- Sponsors:** City Manager
- Attachments:** [October Report](#)  
[October 2020 Marijuana Warnings](#)

15. [202002337](#) **REPORT**, dated 1/6/2021, submitted by Paula Boggs Muething, City Manager, regarding November 2020 Marijuana-Only Warnings/Citations/Arrests Monthly Report. (SEE REFERENCE DOCUMENT #201901197)

**Sponsors:** City Manager

**Attachments:** [Transmittal Report](#)

16. [202100021](#) **REPORT**, dated 1/13/2021, submitted by Paula Boggs Muething, City Manager, regarding Marijuana-Only Warnings/Citations/Arrests Monthly Report, December 2020.

**Sponsors:** City Manager

**Attachments:** [Transmittal Report](#)

17. [202100060](#) **MOTION**, submitted by Vice Mayor Smitherman, **WE MOVE** that the city administration release to the public the additional 2000 plus text messages associated with the "Gang of 5," excluding any text messages related to personal matters. (STATEMENT ATTACHED)

**Sponsors:** Smitherman

**Attachments:** [Motion](#)

18. [202100135](#) **MOTION**, submitted by Councilmember Seelbach, **WE MOVE** that the City Administration take all necessary steps to amend the CPD Procedures based on the attached document - top ensure that CPD's warrant-execution procedures will keep our communities and officers safe, protect more lives, and limit no-knock raids. WE FURTHER MOVE that the Administration should review this policy in consultation with the Manager's Advisory Group. If the Administration seeks any changes/exceptions to the attached policy, the Administration should explain the basis for such changes/exceptions, secure input from the Manager's Advisory Group, and then seek approval of such changes/exceptions by the Council, prior to further amending the procedure and implementing a policy.

**Sponsors:** Seelbach

**Attachments:** [Motion](#)  
[ATTACHMENT](#)

ADJOURNMENT

August 5, 2020

To: Mayor and Members of City Council  
From: Paula Boggs Muething, Interim City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, June 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of June 2020. A total of 21 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.


Attachment- 910-23 Warnings June 2020

CC: Colonel Eliot K. Isaac, Police Chief

**June 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	1	1			<b>2</b>	1	1		<b>2</b>
<b>Dst. 2</b>	1				<b>1</b>		1		<b>1</b>
<b>Dst. 3</b>		3		1	<b>4</b>	3	1		<b>4</b>
<b>Dst. 4</b>	2	2	2	2	<b>8</b>	7	1		<b>8</b>
<b>Dst. 5</b>	2	3	1		<b>6</b>	6			<b>6</b>
<b>All</b>	<b>6</b>	<b>9</b>	<b>3</b>	<b>3</b>	<b>21</b>	<b>17</b>	<b>4</b>	<b>0</b>	<b>21</b>

June 17, 2020

To: Mayor and Members of City Council  
From: Patrick Duhaney, City Manager   
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, May 2020

202000751

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of May 2020. A total of 61 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Warnings May 2020

CC: Colonel Eliot K. Isaac, Police Chief 

**May 2020, CMC 910-23; Marijuana Ordinance Violations**

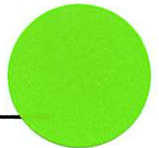
	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	4	1	2		<b>7</b>	7			<b>7</b>
<b>Dst. 2</b>	2	2			<b>4</b>	3	1		<b>4</b>
<b>Dst. 3</b>	3	5	3	2	<b>13</b>	13			<b>13</b>
<b>Dst. 4</b>	6	10	5	2	<b>23</b>	22	1		<b>23</b>
<b>Dst. 5</b>	6	6	2		<b>14</b>	11	3		<b>14</b>
<b>All</b>	<b>21</b>	<b>24</b>	<b>12</b>	<b>4</b>	<b>61</b>	<b>56</b>	<b>5</b>	<b>0</b>	<b>61</b>



May 28, 2020

To: Mayor and Members of City Council  
From: Patrick Duhaney, City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, March 2020

20200655



REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of March 2020. A total of 59 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Warnings March 2020


CC: Colonel Eliot K. Isaac, Police Chief



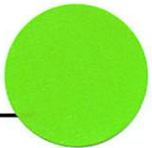
**March 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	6	1	1		<b>8</b>	8			<b>8</b>
<b>Dst. 2</b>	1				<b>1</b>	1			<b>1</b>
<b>Dst. 3</b>	6	5	2		<b>13</b>	7	6		<b>13</b>
<b>Dst. 4</b>	7	10	10	2	<b>29</b>	28	1		<b>29</b>
<b>Dst. 5</b>	2	3	3		<b>8</b>	7	1		<b>8</b>
<b>All</b>	<b>22</b>	<b>19</b>	<b>16</b>	<b>2</b>	<b>59</b>	<b>51</b>	<b>8</b>	<b>0</b>	<b>59</b>

May 28, 2020

To: Mayor and Members of City Council  
From: Patrick Duhaney, City Manager   
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, April 2020

202000648



REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of April 2020. A total of 29 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Warnings April 2020

CC: Colonel Eliot K. Isaac, Police Chief



**April 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
CBS				1	1	1			1
Dst. 1	1	2	1		4	4			4
Dst. 2					0				0
Dst. 3	4	6	1	1	12	12			12
Dst. 4	3	7			10	10			10
Dst. 5	2				2	2			2
<b>All</b>	<b>10</b>	<b>15</b>	<b>2</b>	<b>2</b>	<b>29</b>	<b>29</b>	<b>0</b>	<b>0</b>	<b>29</b>

March 18, 2020

To: Mayor and Members of City Council  
From: Patrick Duhaney, City Manager  202000449  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, February 2020

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REFERENCE DOCUMENT #201901197


On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of February 2020. A total of 57 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Warnings February 2020

CC: Colonel Eliot K. Isaac, Police Chief 

**February 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	3	7	1	2	<b>13</b>	12	1		<b>13</b>
<b>Dst. 2</b>		1		1	<b>2</b>	1	1		<b>2</b>
<b>Dst. 3</b>	5	6			<b>11</b>	8	3		<b>11</b>
<b>Dst. 4</b>	8	10	5	1	<b>24</b>	23	1		<b>24</b>
<b>Dst. 5</b>	3	3	1		<b>7</b>	7			<b>7</b>
<b>All</b>	<b>19</b>	<b>27</b>	<b>7</b>	<b>4</b>	<b>57</b>	<b>51</b>	<b>6</b>	<b>0</b>	<b>57</b>



September 2, 2020

To: Mayor and Members of City Council  
From: Paula Boggs Muething, Interim City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, July 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of July 2020. A total of 17 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief





**July 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
CBS					0				0
Dst. 1	3	1			4	4			4
Dst. 2		1			1	1			1
Dst. 3		1		1	2	1	1		2
Dst. 4	2	3	3		8	6	2		8
Dst. 5		1		1	2		2		2
<b>All</b>	<b>5</b>	<b>7</b>	<b>3</b>	<b>2</b>	<b>17</b>	<b>12</b>	<b>5</b>	<b>0</b>	<b>17</b>

September 16, 2020

To: Mayor and Members of City Council 202001485  
From: Paula Boggs Muething, Interim City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, August 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of August 2020. A total of 43 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

**August 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	7	7	1		<b>15</b>	15			<b>15</b>
<b>Dst. 2</b>	1				<b>1</b>		1		<b>1</b>
<b>Dst. 3</b>	1	3		3	<b>7</b>	5	2		<b>7</b>
<b>Dst. 4</b>	4	3	4	2	<b>13</b>	9	3	1	<b>13</b>
<b>Dst. 5</b>		3	2	2	<b>7</b>	4	3		<b>7</b>
<b>All</b>	<b>13</b>	<b>16</b>	<b>7</b>	<b>7</b>	<b>43</b>	<b>33</b>	<b>9</b>	<b>1</b>	<b>43</b>

October 14, 2020

To: Mayor and Members of City Council

**202001680**

From: Paula Boggs Muething, Interim City Manager

Subject: **Jurisdiction Agreements**

Reference Document #202000793

On June 24, 2020, Vice Mayor Smitherman referred the following item for report:

MOTION, submitted by Vice Mayor Smitherman, WE MOVE that the City Administration provide a report on all jurisdiction agreements between the City of Cincinnati and law enforcement agencies in the Greater Cincinnati Region. The report should include surrounding police forces, nearby universities, Sheriff departments and the Ohio State Highway Patrol.

Attached to this report is the Mutual Aid Agreement (MOU) for Law Enforcement between the City of Cincinnati/ Cincinnati Police Department and the following police agencies/townships/parks/colleges:

Hamilton County/ Hamilton County Sheriff's Office Village of Addyston Village of Amberley Village City of Blue Ash City of Cheviot Village of Cleves City of Deer Park Village of Elmwood Place Village of Evendale Village of Fairfax City of Forest Park Village of Glendale Village of Golf Manor Village of Greenhills City of Harrison City of the Village of Indian Hill Village of Lockland City of Loveland City of Madeira Village of Mariemont City of Milford City of Montgomery City of Mt. Healthy Village of Newtown City of North College Hill City of Norwood	City of Reading City of Sharonville Village of St. Bernard City of Springdale Village of Terrace Park Village of Woodlawn City of Wyoming North Bend PD Anderson Township Colerain Township Columbia Township Crosby Township Delhi Township Green Township Harrison Township Miami Township Springfield Township Sycamore Township Symmes Township Whitewater Township Great Parks of Hamilton County Cincinnati State Technical and Community College Mt. St. Joseph University University of Cincinnati Xavier University Summit Behavioral Police
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cc: Eliot K. Isaac, Police Chief

**HAMILTON COUNTY, OHIO**  
**AMENDED AND RESTATED MUTUAL AID AGREEMENT FOR LAW**  
**ENFORCEMENT**

This agreement ("Agreement") is made and entered into by the undersigned parties as follows:

**WHEREAS**, Revised Code Section 737.04 allows the legislative authority of any municipal corporation to enter into contracts with one or more municipal corporations, townships, township police districts, joint police districts, county sheriffs, park districts, port authorities, or contiguous municipal corporations in an adjoining state, for the purpose of obtaining police protection or additional police protection, or to allow its police officers to work in multi-jurisdictional drug, gang, or career criminal task forces, upon any terms that are agreed for services of police departments, the use of police equipment, or the interchange of services of police departments or police equipment within the territories of the political subdivisions; and

**WHEREAS**, further authority for the participation of townships is set forth in Revised Code Sections 505.43 and 505.431, further authority for the participation of park districts is set forth in Revised Code Sections 511.235 and 1545.131, and further authority for the participation of universities is set forth in Revised Code Section 3345.041 and 1713.50; and

**WHEREAS**, the undersigned parties intend to provide reciprocal police services across jurisdictional lines, consistent with the foregoing statutes, to enhance the capabilities of law enforcement for the protection of citizens and property throughout Hamilton County; and

**WHEREAS**, the undersigned parties intend to provide and exchange the full array of police services with any or all other parties without limitation, but generally in accord with the following guidelines; and

**WHEREAS**, the undersigned parties (individually, "Agency" and collectively, "Agencies") include the following participating jurisdictions: Hamilton County, Ohio; the City of Cincinnati; the Village of Addyston; the Village of Amberley Village; the City of Blue Ash; the City of Cheviot; the Village of Cleves; the City of Deer Park; the Village of Elmwood Place; the Village of Evendale; the Village of Fairfax; the City of Forest Park; the Village of Glendale; the Village of Golf Manor; the Village of Greenhills; the City of Harrison; the City of the Village of Indian Hill; the Village of Lockland; the City of Loveland; the City of Madeira; the Village of Mariemont; the City of Milford; the City of Montgomery; the City of Mt. Healthy; the Village of Newtown; the City of North College Hill; the City of Norwood; the City of Reading; the City of Sharonville; the Village of St. Bernard; the City of Springdale; the Village of Terrace Park; the Village of Woodlawn; the City of Wyoming; Anderson Township; Colerain Township; Columbia Township; Crosby Township; Delhi Township; Green Township; Harrison Township; Miami Township; Springfield Township; Sycamore Township; Symmes Township; Whitewater Township; Great Parks of Hamilton County; Cincinnati State Technical and Community College; Mt. St. Joseph University; the University of Cincinnati; Xavier University; and Summit Behavioral Police.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**I. COOPERATIVE LAW ENFORCEMENT WITHOUT REQUEST**

The Agencies recognize that criminal activities routinely occur across jurisdictional lines, and that cooperation between Agencies can increase the effectiveness of law enforcement

throughout Hamilton County. Any Agency may proceed without request from a cooperating Agency generally according to the following guidelines:

A. In-Progress Crime Assistance Without Request

1. Whenever an on-duty law enforcement officer from one jurisdiction views or otherwise has probable cause to believe a criminal offense has occurred outside the officer's home jurisdiction but within the jurisdiction of a cooperating Agency, the officer may make arrests according to law and take any measures necessary to preserve the crime scene. Control of any arrested persons, evidence and the crime scene shall be relinquished to the first available officer from the jurisdiction within which the crime took place. The arresting officer may transport or relocate any arrested persons or evidence if the officer determines that remaining at the crime scene could endanger the officer or others or threaten the preservation of evidence.

2. Whenever an on-duty law enforcement officer from one jurisdiction views or otherwise has probable cause to believe that a "serious traffic offense" has occurred within the jurisdiction of another cooperating Agency, the law enforcement officer may stop, arrest or cite the suspected violator according to law. Under this Agreement, a "serious traffic offense" is one that jeopardizes public safety and/or constitutes a misdemeanor of the fourth degree or a higher offense. The traffic violator shall be turned over to the first available officer from the cooperating Agency for completion of all necessary processing. The initiating officer shall provide any further assistance to the extent necessary for subsequent court proceedings.

B. Investigations Outside Original Jurisdiction

On-duty officers from one Agency may, without request or prior notice, continue to conduct investigations that originate within their home jurisdiction into the jurisdiction of any cooperating Agency. If enforcement action is anticipated, the location and nature of the

investigation shall be reported to the appropriate cooperating Agency as soon as practicable. Subsequent arrests, search warrant service or similar police actions shall be coordinated between affected Agencies.

C. Independent Police Action

The police department of any cooperating Agency may provide temporary police service to any cooperating Agency without request.

**II. COOPERATIVE LAW ENFORCEMENT UPON REQUEST**

The Agencies recognize that special public safety incidents occasionally require the services of additional law enforcement personnel. Such additional services may be provided by or to any cooperating Agency generally according to the following guidelines:

A. Dangerous Criminal Activity

Whenever one Agency reports criminal activity, and that Agency is unable to provide the immediate response necessary to prevent death, serious physical harm or substantial property loss as a result of such criminal activity, the Agency may request police services of any nature from any other Agency.

B. Searches for Fugitive or Wanted Person

Whenever one Agency conducts a search for a fugitive person whose presence is reasonably believed to be within the Agency jurisdiction, and immediate police assistance is reasonably necessary to apprehend or prevent the escape of the fugitive or to protect the safety of persons and property from imminent danger related to the fugitive, the Agency may request police services from any other Agency.

C. Traffic Control Assistance



1. Whenever a traffic accident involving suspected injuries, operating a vehicle while impaired (“OVI”) or other serious traffic offense is reported to the jurisdiction in which the accident occurred, and the Agency is unable to provide the immediate response necessary to render aid to the injured, prevent further injury, prevent serious property loss, or arrest a suspected OVI violator, the Agency may request assistance from any other Agency. The cooperative effort may include necessary first aid, traffic control, accident scene protection, property protection, and detention of any suspected OVI or serious traffic violator.

2. Hazardous Traffic Conditions Assistance

- a. Whenever automated traffic control devices located within the jurisdictional boundaries of one Agency have malfunctioned and there is substantial or other serious risk of a traffic accident unless control is re-established, assistance from another cooperating Agency may be provided upon request of the affected jurisdiction.
- b. Whenever an incident occurs on or near a roadway creating substantial or other serious risk of a traffic accident, assistance from a cooperating Agency may be provided upon request of the affected jurisdiction.

D. General Police Service

- 1. Any incident may form the basis for the request of police services from one or more cooperating Agencies when police assistance is reasonably necessary to protect the safety of persons and/or property.
- 2. Police services, including but not limited to routine patrol services, may be requested and supplied by cooperating Agencies for limited-time special events or for extended time periods based on need. Such services may

include the facilitation of personnel by their employing Agency for the provision of police protection to a requesting Agency for voluntary, special event details performed while such personnel are not on duty for the employing Agency ("Off-Duty Details"). No Agency is required to facilitate or otherwise provide volunteer personnel for Off-Duty Details. Moreover, any Agency may prohibit its personnel from engaging in such Off-Duty Details to the extent allowed by law.

### **III. GENERAL TERMS AND PROCEDURES**

A. A request for police services may be made by the commander of the law enforcement Agency, or his designee. The designee must be of supervisory rank or the senior shift officer when no supervisor is present.

B. A cooperating Agency will respond to the extent the requested personnel and equipment are not required for the adequate protection of that Agency's jurisdiction. The commander of the law enforcement Agency, or his designee, shall have the sole authority to determine the amount of personnel and equipment, if any, available for assistance.

C. Whenever employees of one cooperating Agency provide police services in or to another cooperating Agency pursuant to the authority set forth in this Agreement, other legislative authority, or state law, such employees shall have the same powers, duties, rights and immunities as if taking action within the territory of their employing Agency. Revised Code Chapter 2744 shall apply to the extent specified in Revised Code Section 737.04 or as otherwise provided by law. Moreover, participation in any indemnity fund established by the employer, and all rights under Revised Code Chapter 4123, shall apply to the extent set forth in Revised Code Sections

505.431 and 737.04, or as otherwise provided by law. Revised Code Chapter 2743 shall apply as provided by law.

D. Whenever employees of one cooperating Agency provide police services to another cooperating Agency, they shall be under the lawful direction and authority of the commanding law enforcement officer of the Agency to which they are rendering assistance, provided, however, that Officers shall be subject to the code of ethics, policies, and rules and regulations of their employing Agency at all times.

E. Police services may be initiated by any on-duty officer who has probable cause to believe a crime is in progress. Such police services may also be initiated by any on-duty officer who becomes aware of a traffic accident, the need for traffic control, a suspected OVI, a serious traffic violator or other circumstance requiring law enforcement intervention in another cooperating Agency jurisdiction. The officer must, as soon as practicable, contact his immediate supervisor to enable that supervisor to authorize and direct actions taken by the employee.

F. An on-duty officer initiating police services shall notify a law enforcement officer from the affected cooperating Agency as soon as possible. As appropriate, the assisted cooperating Agency shall relieve the officer as soon as possible.

G. All wage and disability payments, pension, worker's compensation claims, medical expenses or other employment benefits for employees performing pursuant to this Agreement shall be the responsibility of the employing Agency to the same extent as if the employee were providing service for the employing agency. Additionally, unless otherwise provided in this Agreement, each Agency shall be responsible for the negligence or wrongdoing of its employees to the extent provided by law. Unless otherwise specifically provided herein, nothing in this Agreement shall

impose any greater duty or obligation on an employing agency than provided by law, including as to Off-Duty Details.

H. Each cooperating Agency shall be responsible for any of its own costs arising from or out of its response to a call for assistance, unless the requesting Agency is reimbursed for such costs by a third-party source. Further, in the event of loss of or damage to the Agency's equipment or property while providing police assistance services within the jurisdiction of any other cooperating Agency, the assisting Agency shall not seek to hold the requesting Agency accountable for such loss or damage solely on the basis of the request for services having been made, but may do so if any other actions of the requesting Agency or its employees caused the loss or damage.

#### **IV. SPECIALIZED LAW ENFORCEMENT OPERATIONS**

A. In addition to the law enforcement services described above, parties to this Agreement may request Specialized Law Enforcement Operations, defined as a Special Weapons and Tactics Team ("SWAT"), Underwater Search and Recovery operations, Mobile Field Force Team, or any other operation involving a task force, multi-jurisdictional team, or substantially similar operation of a specialized or unique nature.

B. As used in this Section IV, "Initiating Agency" means the political subdivision requesting Specialized Law Enforcement Operations, and "Assisting Agency" means any political subdivision furnishing Specialized Law Enforcement Operations (including participating personnel) at the request of an Initiating Agency.

C. An Assisting Agency will respond to the extent the requested Specialized Law Enforcement Operations as appropriate under the circumstances, and to the extent the requested Specialized Law Enforcement Operations are available and not required for other use.

D. The Initiating Agency shall be in control of the scene, but, as to tactical or operational execution, all Specialized Law Enforcement Operations personnel shall be directed by their operational commander according to the procedures set forth by the responding Specialized Law Enforcement Operation.

E. Notwithstanding any other provision of this Agreement, and only as to Specialized Law Enforcement Operations, to the extent that any third party asserts a claim of any kind against any Assisting Agency or its participating personnel, whether under Ohio Revised Code Chapter 2744, common law, or any other state or federal statute, the following shall apply:

1. The Initiating Agency shall, to the extent of its liability insurance (including but not limited to any self-insurance or risk pool participation), defend and indemnify any Assisting Agency and its personnel against any claim, loss, damage, expense, cost, attorney fees, or other liability asserted by any third party arising out of the conduct, acts or omissions of personnel engaged in Specialized Law Enforcement Operations. The minimum amount of indemnification provided pursuant to this Paragraph shall be three million dollars (\$3,000,000), regardless of the actual liability insurance limits of the Initiating Agency. The Initiating Agency, however, shall not have any obligation to defend or indemnify the Assisting Agency or its personnel to the extent they act outside the scope of lawful orders issued by the Initiating Agency or its designee, or to the extent that the Assisting Agency or its personnel willfully and maliciously cause injury or damage to person or property.

2. For purposes of Paragraph IV.E.1, the conduct, acts, or omissions for which the Initiating Agency assumes the obligation to defend and indemnify the Assisting Agency or its personnel are the conduct, acts, or omissions that occur from the time the applicable Specialized Law Enforcement Operations personnel arrive at the requested location and report to the Initiating Agency's Chief of Police or other Officer-in-Charge (collectively, "OIC"), until the time the personnel are dismissed by the Initiating Agency's OIC.
3. Before requesting Specialized Law Enforcement Operations, an Initiating Agency must have in full force and effect liability insurance sufficient to defend and indemnify any Assisting Agency and its personnel under this Agreement in an amount no less than three million dollars (\$3,000,000) per occurrence, regardless of any aggregate limit, or self-insurance.
4. As a condition of the obligations set forth in Paragraph IV.B.1 above, the Assisting Agency must provide prompt written notice to the Initiating Agency of any threatened or asserted third-party claim, including any lawsuit served, so that a timely answer may be filed.
5. In the event of any third-party claim against an Assisting Agency or its personnel, the Assisting Agency and its personnel shall, as a condition of receiving defense and indemnification provide their full cooperation to any Initiating Agency or its insurer assuming the defense of such claim or action.

**V. ADDITIONAL PROVISIONS**

A. This Agreement shall be in continuous effect for each participating Agency from the date of that Agency's execution of the Agreement. Any Agency may terminate its participation in this Agreement upon sixty (60) days written notice sent care of the Reading Police Department. Upon receipt of such notice, the Reading Police Department will notify the remaining participants, or cause them to be notified, of such termination.

B. This Agreement is solely intended to set forth certain arrangements for the provision of mutual aid where practicable. Therefore, the parties do not intend for any third party to rely on the provisions of this Agreement, and specifically disclaim intent to create any third-party beneficiary with rights under the Agreement. Moreover, there shall be no liability whatsoever upon any Agency arising out of this Agreement, whether to other Agencies, third parties, or otherwise, for the Agency's failure to fully or partially respond to a call for assistance, whether due to the Agency's equipment and/or employees being otherwise engaged, exigent circumstances, or for any other reason.

C. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

D. This Agreement contains the entire agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this agreement shall be of no force and effect.

E. This Agreement shall be severable, if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

F. The Reading Police Department shall serve as the depository for this Agreement unless otherwise agreed by the parties in writing or by custom and practice.

G. Parties may be added or deleted from this Agreement, and other terms may be modified, by written addendum without restating the entire Agreement.

H. This Agreement may be executed in counterparts.

I. This Agreement supersedes and replaces all prior versions of the Hamilton County, Ohio Mutual Aid Agreement for Law Enforcement (including as amended and restated), which are hereby terminated; provided, however that as to any incident that occurred during the term of the March 1, 2014 agreement, and that arose out of Specialized Law Enforcement Operations, the provisions of the former Section IV.E.1 through 5 shall apply to that incident only.

Only signatures to follow.

Executing Agency: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CERTIFICATE OF MAINTENANCE OF INSURANCE IN AMOUNTS SUFFICIENT  
TO FUND INDEMNIFICATION REQUIRED BY THIS AGREEMENT**

I certify that \_\_\_\_\_, currently holds in full force and effect and will maintain general liability insurance in amounts equal to or exceeding Three Million Dollars (\$3,000,000.00) per occurrence, regardless of any aggregate limit or self-insurance, which amount will fund the indemnification requirements of this Agreement.

\_\_\_\_\_  
Fiscal Officer





Executing Agency: City of Cincinnati

By: 

Printed Name: Patrick Duhaney

Its: City Manager

Date: 2/13/19

**CERTIFICATE OF MAINTENANCE OF INSURANCE IN AMOUNTS SUFFICIENT TO FUND INDEMNIFICATION REQUIRED BY THIS AGREEMENT**

I certify that N/A, currently holds in full force and effect and will maintain general liability insurance in amounts equal to or exceeding Three Million Dollars (\$3,000,000.00) per occurrence, regardless of any aggregate limit or self-insurance, which amount will fund the indemnification requirements of this Agreement.

N/A  
Fiscal Officer

RECOMMENDED BY:

  
Eliot Isaac, Chief of Police

APPROVED AS TO FORM:

  
Assistant City Solicitor

**Re: City of Cincinnati Self Insurance Program - 2019**

To Whom It May Concern:

The City of Cincinnati does not currently purchase commercial liability insurance. As such the City does not issue certificates of insurance as evidence of coverage. This is not expected to change for calendar year 2019. The City's Law Department processes all claims and lawsuits filed against the City and maintains sole authority for the settlement of claims and lawsuits. Each year money is set aside in the Law Department budget for the express purpose of paying claims incurred by the City. If there is a shortfall in the loss fund, additional money can be appropriated from the City's operating budget. In addition, the City has the ability to sell judgment bonds, without taxpayer approval, in order to raise any required funds if a large loss or losses occur. The City has always been able to meet its financial obligations from the operating budget.

If there is a need for additional information please feel free to call me at (513) 352-3337.

Sincerely,

*Deborah Allison*

Deborah Allison  
Risk Manager

October 14, 2020

To: Mayor and Members of City Council **202001818**  
From: Paula Boggs Muething, Interim City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, September 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of September 2020. A total of 44 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

**September 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	6	3	1	1	<b>11</b>	11			<b>11</b>
<b>Dst. 2</b>	2	3			<b>5</b>	5			<b>5</b>
<b>Dst. 3</b>	1	2	1		<b>4</b>	4			<b>4</b>
<b>Dst. 4</b>	8	3	4	3	<b>18</b>	18			<b>18</b>
<b>Dst. 5</b>	1	4	1		<b>6</b>	6			<b>6</b>
<b>All</b>	<b>18</b>	<b>15</b>	<b>7</b>	<b>4</b>	<b>44</b>	<b>44</b>	<b>0</b>	<b>0</b>	<b>44</b>

## Allen, Perriann

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**From:** Andy.Wilson@governor.ohio.gov  
**Sent:** Tuesday, October 13, 2020 9:46 AM  
**To:** Smitherman, Christopher  
**Subject:** [External Email]

External Email Communication

Chris,

Here is the Ohio Revised Code Section that governs law enforcement's ability to obtain a "no knock" warrant.

### **2933.231 Waiving the statutory precondition for nonconsensual entry.**

(A) As used in this section:

- (1) "Law enforcement officer" has the same meaning as in section [2901.01](#) of the Revised Code and in Criminal Rule 2.
- (2) "Prosecutor" has the same meaning as in section [2935.01](#) of the Revised Code, and includes any prosecuting attorney as defined in Criminal Rule 2.
- (3) "Statutory precondition for nonconsensual entry" means the precondition specified in section [2935.12](#) of the Revised Code that requires a law enforcement officer or other authorized individual executing a search warrant to give notice of his intention to execute the warrant and then be refused admittance to a dwelling house or other building before he legally may break down a door or window to gain entry to execute the warrant.

(B) A law enforcement officer, prosecutor, or other authorized individual who files an affidavit for the issuance of a search warrant pursuant to this chapter or Criminal Rule 41 may include in the affidavit a request that the statutory precondition for nonconsensual entry be waived in relation to the search warrant. A request for that waiver shall contain all of the following:

- (1) A statement that the affiant has good cause to believe that there is a risk of serious physical harm to the law enforcement officers or other authorized individuals who will execute the warrant if they are required to comply with the statutory precondition for nonconsensual entry;
- (2) A statement setting forth the facts upon which the affiant's belief is based, including, but not limited to, the names of all known persons who the affiant believes pose the risk of serious physical harm to the law enforcement officers or other authorized individuals who will execute the warrant at the particular dwelling house or other building;
- (3) A statement verifying the address of the dwelling house or other building proposed to be searched as the correct address in relation to the criminal offense or other violation of law underlying the request for the issuance of the search warrant;
- (4) A request that, based on those facts, the judge or magistrate waive the statutory precondition for nonconsensual entry.

(C) If an affidavit for the issuance of a search warrant filed pursuant to this chapter or Criminal Rule 41 includes a request for a waiver of the statutory precondition for nonconsensual entry, if the request conforms with division (B) of this section, if division (E) of this section is satisfied, and if the judge or magistrate issues the warrant, the judge or magistrate shall include in it a provision that waives the statutory precondition for nonconsensual entry for purposes of the search and seizure authorized under the warrant only if he determines there is probable cause to believe that, if the law enforcement officers or other authorized individuals who execute the warrant are required to comply with the statutory precondition for nonconsensual

entry, they will be subjected to a risk of serious physical harm and to believe that the address of the dwelling house or other building to be searched is the correct address in relation to the criminal offense or other violation of law underlying the issuance of the warrant.

(D)

(1) A waiver of the statutory precondition for nonconsensual entry by a judge or magistrate pursuant to division (C) of this section does not authorize, and shall not be construed as authorizing, a law enforcement officer or other authorized individual who executes a search warrant to enter a building other than a building described in the warrant.

(2) The state or any political subdivision associated with a law enforcement officer or other authorized officer who executes a search warrant that contains a provision waiving the statutory precondition for nonconsensual entry is liable in damages in a tort action for any injury, death, or loss to person or property that is proximately caused by the officer's execution of the warrant in accordance with the waiver at an address of a dwelling house or other building that is not described in the warrant.

(E) Any proceeding before a judge or magistrate that involves a request for a waiver of the statutory precondition for nonconsensual entry shall be recorded by shorthand, by stenotype, or by any other mechanical, electronic, or video recording device. The recording of and any transcript of the recording of such a proceeding shall not be a public record for purposes of section [149.43](#) of the Revised Code until the search warrant is returned by the law enforcement officer or other authorized officer who executes it. This division shall not be construed as requiring, authorizing, or permitting, and does not require, authorize, or permit, the making available for inspection, or the copying, under section [149.43](#) of the Revised Code of any confidential law enforcement investigatory record or trial preparation record, as defined in that section.



Andy Wilson  
Senior Advisor for Criminal Justice Policy  
Office of Ohio Governor Mike DeWine  
(614) 644-0385  
[Andy.wilson@governor.ohio.gov](mailto:Andy.wilson@governor.ohio.gov)  
[www.governor.ohio.gov](http://www.governor.ohio.gov)

*This message and any response to it may constitute a public record and thus may be publicly available to anyone who requests it.*



202002015



**CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED DOCUMENT**

**Date:** October 12, 2020  
**To:** Members of the Law & Public Safety Committee  
**Copy to:** Paula Boggs Muething, Interim City Manager  
**From:** Andrew W. Garth, Interim City Solicitor *AWG*  
Kate Burroughs, Sr. Assistant City Solicitor  
**Subject:** **Legality of No Knock Search Warrant Ban Ordinance**

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This opinion addresses legal issues concerning state law and the City Charter in connection with prohibition of no-knock search warrants by the Cincinnati Police Department (“CPD”).

**Summary**

In order to prevent state preemption issues and comply with City Charter limitations, Council efforts to ban or limit the use of no-knock search warrants by CPD officers must be undertaken through the exercise of the City Manager’s authority over the oversight and operation of the Police Department.

The Ohio Revised Code (“O.R.C.”) generally provides that a law enforcement official must “give notice of his intention to execute the warrant and then be refused admittance” prior to nonconsensual entry to execute a search warrant.<sup>1</sup> But the O.R.C. also provides that a law enforcement officer, prosecutor, or other authorized individual may ask the court for a “no-knock” warrant for nonconsensual entry under limited circumstances. If City Council were to enact an ordinance to legislatively contradict or invalidate the O.R.C.’s warrant provisions in Cincinnati, such a law could be vulnerable to state preemption challenge and raise Charter issues, as described below.

Instead, modifications to the no-knock warrant policies and procedures of the Cincinnati Police Department can be pursued through the City Manager’s authority to operate and administer the police department. The City Manager’s

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<sup>1</sup> O.R.C. § 2933.231.



administrative role over CPD falls within the City's power of local self-government.<sup>2</sup> The power of local self-government is not subject to state conflict and preemption limitations.

Accordingly, while City Council cannot legislate a change to CPD practices and procedures, City Council can express its position on the use of no-knock warrants via motion, request reports from the Administration regarding the use of no-knock search warrants, and ask questions about their use. The City Manager has the authority to direct the Police Chief and Police Department's work. The City Manager and Police Chief also have the authority to revise the Police Department policies to prohibit unannounced searches.

### Legal Background

The Fourth Amendment to the United States Constitution governs how police officers may conduct searches of private property:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

As a result of these Fourth Amendment rights, officers must secure a warrant before searching someone's home or seizing their property. In 1958, the U.S. Supreme Court recognized that police must give notice before making a forced entry, which was extended to all states in 1963 (the “knock and announce” rule).<sup>3</sup> In 1995, however, the Supreme Court held the “knock and announce” rule could be considered and dispensed with by a court issuing a search warrant.<sup>4</sup>

The Ohio Revised Code requires “a law enforcement officer or other authorized individual executing a search warrant to give notice of his intention to execute the warrant and then be refused admittance to a dwelling house or other building before he legally may break down a door or window to gain entry to execute the warrant.”<sup>5</sup> However, pursuant to O.R.C. § 2933.231, a law enforcement officer, prosecutor, or other authorized individual *may* include in the affidavit for the

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<sup>2</sup> The Ohio Supreme Court has held that “the organization and regulation of [the City's] police force, as well as its civil service functions, are within a municipality's power of local self-government.” *State ex rel. Lynch v. Cleveland* (1956), 164 Ohio St. 437, quoting *Harsney v. Allen*, 160 Ohio St. 36 (1953).

<sup>3</sup> *Ker v. California*, 374 U.S. 23 (1963), citing *Miller v. United States*, 357 U.S. 301 (1958).

<sup>4</sup> *Wilson v. Arkansas*, 514 U.S. 927 (1995).

<sup>5</sup> O.R.C. § 2933.231 (A)(3) (defining “statutory precondition for nonconsensual entry” as defined in O.R.C. § 2935.12).

search warrant a request for a waiver of this statutory precondition for nonconsensual entry. The affidavit for the waiver must contain:

- (1) A statement that the affiant has good cause to believe that there is a risk of serious physical harm to the law enforcement officers or other authorized individuals who will execute the warrant if they are required to comply with “knocking and announcing” before nonconsensual entry;
- (2) A statement setting forth the facts upon which the affiant’s belief is based, including, but not limited to, the names of all known persons who the affiant believes pose the risk of serious physical harm to the law enforcement officers or other authorized individuals who will execute the warrant at the particular residence or other building;
- (3) A statement verifying the address of the residence or other building proposed to be searched as the correct address in relation to the criminal offense or other violation of law underlying the request for the issuance of the search warrant;
- (4) A request, based on these statements, that the judge or magistrate waive the “knock and announce” requirement for nonconsensual entry.<sup>6</sup>

The city associated with a law enforcement officer making the request can be held liable for damages associated with the execution of the search warrant where the statutory precondition to “knock and announce” was waived.<sup>7</sup> Ohio’s legislature, through its enactment of O.R.C. § 2933.231, recognized that no-knock search warrants should be used in very limited circumstances and with multiple levels of scrutiny because there is a statewide interest in protecting the safety of persons within their homes.<sup>8</sup>

### Analysis

The City has Home Rule authority to prohibit the Cincinnati Police Department from using no-knock search warrants as a matter of local self-government, but the Manager has sole authority under the City Charter to regulate the Police

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<sup>6</sup> *Id.* (The request must be recorded and the judge must find that the officer will be subjected to a risk of serious physical harm and that the address is correct.)

<sup>7</sup> *Id.* at (D).

<sup>8</sup> See *Am. Fin. Servs. Ass’n v. City of Cleveland*, 112 Ohio St.3d 170 (2006) (finding that the Home Rule Amendment was “designed to give the “broadest possible powers of self-government in connection with all matters which are strictly local,” but the framers of the amendment did not want to “impinge upon matters which are of a state-wide nature or interest.” (quoting *State ex rel. Hackley v. Edmonds*, 150 Ohio St. 203 (1948)).

Department's policies.

### **I. The City could ban the use of no-knock search warrants under its Home Rule authority.**

The Ohio Constitution grants municipalities the authority to engage in self-government and enact laws that do not conflict with the general, police-power laws of Ohio. Specifically, cities can exercise all powers of local self-government and adopt and enforce within their limits such local police, sanitary, and other similar regulations as are not in conflict with Ohio's general laws.

When an ordinance relates to local self-government, the ordinance is a valid exercise of the City's Home Rule authority.<sup>9</sup> The City can exercise its power of local self-government relating to the regulation of its police department as long as the regulation is not an exercise of police power.<sup>10</sup> The Ohio Supreme Court has held that "the organization and regulation of [the City's] police force, as well as its civil service functions, are within a municipality's power of local self-government."<sup>11</sup>

A local ordinance "must relate 'solely to the government and administration of the internal affairs of the municipality.'"<sup>12</sup> The Ohio Supreme Court held that a municipality cannot "infringe on matters of statewide concern" even in the regulation of exclusively local matters.<sup>13</sup> The Ohio Supreme Court provides some guidance regarding when a regulation of the City's Police Department may be preempted by state law:

[E]ven if there is a matter of local concern involved, if the regulation of the subject matter affects the general public of the state as a whole more than it does the local inhabitants the matter passes from what was a matter for local government to a matter of general state interest.<sup>14</sup>

A narrowly crafted City ordinance banning the use of no-knock warrants as a matter of CPD policy and procedure within the City limits by CPD officers who are not serving on state or federal task forces would regulate the administration of the Police Department and internal affairs of the City without impinging on other

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<sup>9</sup> *Id.*

<sup>10</sup> *State ex rel. Canada v. Phillips*, 168 Ohio St. 191, 194 (1953).

<sup>11</sup> *State ex rel. Lynch v. Cleveland*, 164 Ohio St. 437 (1956) quoting *Harsney v. Allen*, 160 Ohio St. 36 (1953).

<sup>12</sup> *Marich v. Bob Bennett Constr. Co.*, 116 Ohio St.3d 553, 556 (2008) quoting *Beachwood v. Cuyahoga Cty. Bd. of Elections*, 167 Ohio St. 369 (1958).

<sup>13</sup> *State ex rel. Evans v. Moore*, 69 Ohio St. 2d 88, 89-90 (1982) (holding that local regulations could not except the municipality from state prevailing wage laws).

<sup>14</sup> *Id.* at 90 (quotation marks omitted).

jurisdictions.<sup>15</sup> (In contrast, a broader City ordinance purporting to legislate on the issue of no-knock warrants independent of City Manager authority would raise state preemption issues.) Therefore, a City ordinance banning the use of no-knock warrants by the Cincinnati Police Department is likely permissible under Ohio law without any further Home Rule analysis.<sup>16</sup> Such an ordinance, however, would conflict with the City Charter as set forth below.

## **II. Council does not have the authority under the City Charter to enact an ordinance banning the police department from requesting a no-knock search warrant.**

While an ordinance banning CPD's use of no-knock warrants could be a valid exercise of the City's Home Rule authority under state law, such an ordinance is beyond Council's authority. The Charter delineates the powers and authority of the City Manager and Council. Pursuant to Article IV, Section 1, the City Manager is the chief executive and administrative officer of the City. The City Manager "supervises the administration of the affairs of the city, except as otherwise specifically provided in [the] charter; [sees] that the ordinances of the city and the laws of the state are enforced . . ." and exercises "all other executive and administrative powers conferred by the laws of the state upon any municipal official" except as otherwise provided in the Charter.<sup>17</sup>

The Charter vests City Council with "all legislative powers of the city" subject to the terms of the Charter and the Ohio Constitution.<sup>18</sup> The Charter does not provide Council with administrative powers beyond its right to appoint its legislative assistants and clerk. Per the Charter, Council may exercise legislative authority; it may not exercise administrative authority.<sup>19</sup> Council lacks the authority to legislate what is the administrative authority of the City Manager and the Chief of Police – the control and direction of police work.

The City Manager is vested with the authority to appoint the Police Chief, Executive Assistant Chief, and Assistant Police Chiefs.<sup>20</sup> The chief of police

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<sup>15</sup> *Beachwood*, 167 Ohio St. at 371 (holding that a local regulation that affects only the [City] itself, with no extraterritorial effects, is clearly within the power of local self-government and is a matter for the determination of the municipality.)

<sup>16</sup> It is important to note that the recent trend in the Ohio Supreme Court has been to invalidate local laws, even those appearing to be a power of local self-government, under a theory that the subject matter affects the general public. Therefore, even if a policy banning the use of "no knock" warrants were implemented, there is a chance that a court could invalidate it as conflicting with state law. Such a ruling could then be used to attack the City's ability to regulate its police department in other areas, risking that important decisions about how the department operates would lie in the hands of the Ohio General Assembly.

<sup>17</sup> Art. IV, Sec. 3.

<sup>18</sup> Charter, Art. II, Sec. 1.

<sup>19</sup> Charter, Art. II, Sec. 1 and Art. IV, Sec. 1.

<sup>20</sup> Charter, Art. V, Sec. 5.

falls under the control, direction, and supervision of the City Manager and, subject to the approval of the City Manager, is the commanding officer<sup>21</sup> of the department with control of the direction of the police work.<sup>22</sup> CPD officers perform their duties at the direction of the Chief of Police, who is subject to the “control, direction, and supervision of the City Manager.”<sup>23</sup> The Chief of Police is a principal appointive executive officer.<sup>24</sup> CPD officers are executive branch officers carrying out administrative duties.

The Police Chief may prescribe rules and regulations for the police department, which must be approved by the City Manager.<sup>25</sup> These rules and regulations must comply with policies imposed by the Chief of Police under the direction of the City Manager,<sup>26</sup> as well as state laws that establish duties for law enforcement officers across the state when executing search warrants or requesting a waiver for the same.<sup>27</sup>

The Cincinnati Police Department implemented CPD Procedure §12.700, “Search Warrants/Consent to Search.” This section provides additional requirements CPD officers must meet before requesting a no-knock search warrant.<sup>28</sup> The additional requirements balance the preference to “knock and announce” with the safety of the officers. The affidavit supporting the request for the no-knock warrant must be reviewed and approved by a commanding officer (captain or above). Moreover, after the commanding officer reviews the affidavit, that officer contacts the City Prosecutor who also reviews it. The affiant officer meets with a judge or magistrate only after the City Prosecutor reviews the affidavit, where there is another layer of review imposed by O.R.C. § 2933.231. Ultimately, if a no-knock search warrant is issued in the City, it must meet the requirements under the Police Department policies and procedures, the requirements under state law, and go through a judicial review.

### **III. Well-established exceptions to the “Knock and Announce” could have implications on a local ordinance or policy banning no-knock search warrants.**

The law provides police officers significant discretion in the execution of their work as the occupation poses inherent safety risks and dangerous situations for both the officers and the community. As a result, despite any attempt to create local

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<sup>21</sup> The Mayor can take command of the police to maintain order and enforce the law in time of public danger or emergency with the consent of Council. Admin. Code, Art. III, Sec. 2,

<sup>22</sup> Admin Code, Art. IV, Sec. 2.

<sup>23</sup> Admin. Code, Art. IV, Sec. 2.

<sup>24</sup> Admin. Code, Art. I, Sec. 1.

<sup>25</sup> Admin. Code, Art. I, Sec. 7.

<sup>26</sup> *Id.*

<sup>27</sup> O.R.C. Ann. §737.11.

<sup>28</sup> CPD Procedure 12.700.

legislation or CPD rules and regulations banning no-knock search warrants, there may be instances where circumstances not known to officers when they apply for and receive a search warrant dictate officers execute an unannounced, nonconsensual entry instead. It is well-established that law enforcement officers may dispense with the “knock and announce” requirement when they have reasonable suspicion of exigent circumstances regardless of whether the warrant authorizes no-knock entry. When officers do not have a no-knock warrant and enter without knocking due to exigent circumstances, the justification for bypassing “knock and announce” requirements may arise as late as when the officers are at the door. Having a law that completely bans the use of no-knock search warrants under all circumstances could put officers and citizens in danger for truly emergent circumstances. It is also possible that such a policy could lead to lawsuits from the public alleging damages due to the City’s policy making a situation, like a hostage recovery, more dangerous or harmful.

### **Conclusion**

The ultimate authority to direct the Police Department and the Police Chief lies with the City Manager. Ohio law does not preempt the City’s authority to enact an ordinance banning the use of no-knock search warrants by CPD officers within the City limits. However, Council does not have the authority under the Charter to legislate an ordinance that involves the administration of the Police Department. Council can ask the City Manager to provide a report from the Police Department regarding the use of no-knock search warrants and make recommendations. Administrative changes made to police operations by the Manager and the Police Chief regarding no-knock search warrants should take into account the current holdings of the Supreme Court of the United States and implications of officers’ work within other agencies and jurisdictions.

If you have questions, please feel free to contact me or Assistant Solicitor Kate Burroughs at 513-352-4893.

November 12, 2020

To: Mayor and Members of City Council

**202002064**

From: Paula Boggs Muething, City Manager

Subject: Report on Motion to Establish a Task Force Aimed at Solving Issues Around Livingston Avenue

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**REFERENCE DOCUMENT #202001432**

On August 24, 2020, the Law and Public Safety Committee referred the following for a report:

MOTION, submitted by Councilmember Mann and Councilmember Sundermann, WE MOVE that the City administration establish a task force aimed at solving the safety issues around Livingston Avenue. A multi-agency task force should be established, including Police, Building Inspection, Public Services, and Engineering, and outside agencies like the Port Authority for a comprehensive and sustainable approach.

The City Administration is assembling a cross departmental team to address quality of life issues around Livingston Avenue. The City team will include representatives from Police, Fire, Health, Public Services, Transportation and Engineering, Buildings and Inspections, and Law. Community stakeholders such as West End Community Council, Seven Hills Neighborhood House, and Keep Cincinnati Beautiful will be invited to participate in this effort and help guide enforcement priorities. Area of focus will include litter and weed blight reduction, removal of junk vehicles, and the enforcement of exterior building code violations.

Regularly scheduled meetings with City staff and stakeholders will be held throughout the year. This will enable City and community participants to create a collaborative and productive dialogue on how to best improve the quality of life in the Livingston Avenue area.

**SUMMARY**

The City Manager's Office will coordinate a cross departmental team aimed at developing a City-Community strategy for addressing concerns regarding crime and property conditions in the Livingston Avenue area of the West End. This team will be activated in the next 30 days.

January 6, 2021

To: Mayor and Members of City Council 202002091  
From: Paula Boggs Muething, City Manager  
Subject: Citizen Complaint Authority Recommendations and CPD Improvement, Report 1

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REFERENCE DOCUMENT # 202001079

On September 2, 2020, the Law and Public Safety Committee referred the following for a report:

MOTION, submitted by Councilmember Landsman, The Citizen Complaint Authority (CCA) is at the heart of the Collaborative Agreement but it faces two major challenges. CCA has been understaffed and the submitted complaints are not being investigated and responded to in a timely manner. At one point, CCA had a backlog of over 100 cases, including many excessive use-of-force complaints. (BALANCE OF MOTION ON FILE IN THE CLERK'S OFFICE)

The following report is the first of two in response to Motion 20200179. This report provides an overview of the CCA recommendation process, as well as recommendations submitted to CPD for response. The second report, to be submitted within 60 days, will detail responses from CPD to each recommendation identified.

**CCA RECOMMENDATION AND RESPONSE PROCESS**

CCA provides an independent and impartial forum for the review, investigation, and resolution of complaints filed by citizens against police officers. CCA has three components: an advisory Board of seven citizens appointed by the Mayor and approved by City Council; a full-time Director with support staff; and a team of professional investigators.

CCA has existed for nearly 20 years. It was created in May of 2002 in the aftermath of civil unrest that occurred the previous year when a Cincinnati Police Officer shot and killed Timothy Thomas, an unarmed Black teenager. In resolution of lawsuits related to the shooting, Cincinnati's historic Collaborative Agreement was signed to improve police service and to implement community-oriented policing. A Memorandum of Agreement (MOA) between the U.S. Department of Justice, the City and the CPD was also executed. As a result of those two agreements, the City established CCA in its Administrative Code.

CCA investigates serious police interventions, such as discharges of firearms, deaths in custody, and major uses of force; as well as serious complaints of misconduct, such as excessive force, improper pointing of firearms, improper searches and seizures, improper stops, and discrimination (including racial profiling). Complaints not investigated by CCA are referred to CPD. CCA also makes recommendations to the City Manager and the Police Chief.



At the conclusion of an investigation, the Director makes findings based on a preponderance of the evidence standard and may also make recommendations. CCA’s Board reviews the completed investigations, and takes a vote indicating approval or disapproval of the Director’s findings and recommendations. Afterwards, the City Manager will conduct a final review and assessment. <sup>1</sup>

## 2018 – 2020 CCA RECOMMENDATIONS<sup>2</sup>

Note: This report combines some recommendations that are nearly identical, rather than setting out all the permutations of that recommendation. For instance, in cases where repeat recommendations were issued by CCA, the agency included those with substantially similar language although not always identical. In all such instances, this report includes only one version of the recommendation. All corresponding case numbers where the recommendation was made have been included for official reference purposes.

### De-Escalation & Harassment

CCA Case No.	CCA Recommendation
19157	CCA also recommends that CPD make a separate policy for the utilization of de-escalation techniques. This policy should further expand on the definition of de-escalation techniques, which is listed under CPD Procedure Manual § 12.545 Use of Force. The policy should, in part, explain the criticalness of an officer’s awareness to properly select and implement the proper de-escalation technique in a given situation. Additionally, there should be a renewed focus on training and simulations that can assist officers in developing better awareness in situations where de-escalation techniques would help prevent the use of force.
18229,17163	CCA recommends that CPD create a definition of Harassment, at a minimum, in its CPD Procedure to provide officers with specific direction and guidance.

### Taser/Firearm

CCA Case No.	CCA Recommendation
18181,18158, 18092,18067, 17162	In addition to previous recommendations to CPD Procedure § 12.545 Use of Force, CCA recommends that CPD further develop the Taser section regarding avoidance of prolonged, extended, uninterrupted discharges or extensive multiple discharges. To support its development, a study should be conducted to review these types of taser discharges that include analyses of the number of incidents, the demographics of citizens involved in these incidents, the types of behaviors that result in a citizen being the target, and any injuries sustained. Such a study can be impactful in assisting CPD to ensure operational taser practices align with policy and training.
18115,18076	CCA recommends that CPD create a tracking system that requires officers to document every time they point their firearms/tasers at a person (including at the low ready position) and describe the type of encounter that prompted them to have to draw their firearm/taser such as: felony traffic stop, investigatory stop, etc. This information could be added to their Contact Card or Arrest Report. The

<sup>1</sup> For additional information on CCA, please visit CCA’s website at <https://www.cincinnati-oh.gov/ccia/about-cca/>.

<sup>2</sup> This report does not include 2020 recommendations pending review by the City Manager and that thus have not been formally forwarded to the Police Chief.

CCA Case No.	CCA Recommendation
	results would prove useful in detecting trends as well as be used in the creation of further training tools.
18154,18076, 18042,17220	CCA continues to recommend that CPD review the Taser section of its Procedure § 12.545 Use of Force to determine when it is appropriate for officers to remove their tasers from their holsters and how officers should point and use their tasers as a means of control to avoid the appearance of a physical threat to a citizen. While CPD's recent 2019 changes continue to enforce the objective reasonableness standard, CCA feels more clarity is needed. One point of clarity that CCA recommends be included is the creation of a definition and section on passive resistance versus active resistance with explanation of what uses of force are acceptable and non-acceptable based on the type of resistance and why.

### Body Worn Camera

CCA Case No.	CCA Recommendation
18139	While BWCs are primarily worn by uniformed officers, CCA expressed concern during the BWC Policy implementation period regarding scenarios where plain clothed officers should be required to wear BWC's. This case provides such an example.
19010	CCA recommends the Body Worn Camera System procedure be reviewed and adjusted to provide explicit direction to officers in light of the procedure's purpose.  CPD Procedure § 12.540 Body Worn Camera System states that officers will use BWC equipment to record all calls for service and self-initiated activities and when assisting other officers. The BWC must be activated when the officer arrives on-scene or announces he/she is on-scene in the area and must be recorded in its entirety. However, it allows exceptions for officers to deactivate their BWC in specific situations, such as completing paperwork, e.g. case report, as long as they are not interacting with the public. There are concerns that the exceptions may be contradictory to the purpose and policy behind CPD Procedure § 12.540. Furthermore, the discretion of the officer regarding when to activate or deactivate the BWC could come into question. Since CPD has the ability to redact any information that it deems confidential in nature prior to making footage public, it should not be left to the officer's discretion.
18149	CCA recommends that CPD include in Procedure § 12.540 Body Worn Camera System that officers who are assigned to work the front desk be required to activate their BWC's for civilian contact regardless if it is a consensual encounter. Doing this can either confirm or refute complaints. CPD should also define the term consensual encounter, further provide guidance at what point a consensual encounter becomes a police-initiated encounter and at what point during the encounter officers should activate and de-activate their BWCs.

CCA Case No.	CCA Recommendation
17244,16247, 17033	<p>CCA continues to urge CPD to issue BWC to the FAS (uniformed and plain clothed), requiring them to wear them as patrol officers are required to wear them, in addition to during the execution of warrants. This includes scenarios that involve obtaining consent. As further support of this recommendation, the International Association of Chiefs of Police Model BWC Policy also recommends such units like CPD's FAS wear BWCs.</p> <p>In the past, CCA expressed concern regarding the FAS not wearing BWCs, including during the BWC Policy implementation period. CCA understands that the undercover units should be exempted from the practice. The FAS is not an undercover unit; its primary role is to execute warrants including the investigation, location, and apprehension of offenders with warrants.</p>
17033	<p>Furthermore, all uniformed officers in specialized units should be required to wear BWCs. There is no exception in the current CPD Procedure § 12.540 that excludes uniformed officers assigned to specialized units like the FAS from wearing BWCs.</p>

### Use of Force

CCA Case No.	CCA Recommendation
18229,18181, 18158,18092, 17162,17073	<p>CCA recommended in prior investigations involving the allegation of use of force that CPD re-enact the Use of Force Board. While CPD acknowledged that enactment of the Use of Force Board is not needed due to the concurrent investigations by CPD and CCA, CCA still has concern. Since Use of Force is still the underlying cause of many CPD and CCA complaints, CCA believes the Use of Force Board is imperative. CPD Procedure § 12.545 Use of Force, refers to the Use of Force Board conducting comprehensive reviews of various use of force incidents; this would also include reviewing police tactics in cases like this one. By enacting the Use of Force Board, protocols and patterns may be further identified that can lead to a decrease in Use of Force complaints.</p>
17162	<p>CCA recommends that a Force Continuum or Matrix be included in CPD Procedure § 12.545 Use of Force, defining the types of force/weapons that can be used to respond to specific types of resistance. This tool can further guide officers in how force should be applied, but also further encourage de-escalation.</p>

### Transparency

CCA Case No.	CCA Recommendation
19058,18114, 18214,17234, 17234	<p>CCA recommends a review by the CPD of its handling of and response to CCA's requests for information to ensure CPD's compliance with Article XXVIII and the Collaborative Agreement. It is imperative that CCA receive evidence from CPD timely to conduct a viable investigation. At a minimum, since CCA shares all complaints it investigates with CPD, any records related to the complaint should be flagged and provided to CCA upon notification of CCA's investigation. Article XXVIII Cincinnati Administrative Code Article XXVIII, § 3-B reads (in part), "The executive director of CCA shall have reasonable access to city records, documents. . . ." In this case, CCA requested the MVR/DVR of the incident but was informed by CPD that while the evidence existed and was requested, it could not be located.</p>

CCA Case No.	CCA Recommendation
18199	CCA continues to request that once CCA shares complaints it investigates with CPD, which occurs within 48 hours of CCA's receipt of a complaint, any records related to the complaint should be flagged and provided to CCA upon notification of CCA's investigation. It is imperative that CCA receive evidence from CPD to conduct a viable investigation. Article XXVIII Cincinnati Administrative Code Article XXVIII, § 3-B reads (in part), "The executive director of CCA shall have reasonable access to city records, documents.
19129,18199	In the interest of transparency, CCA continues to recommend that CPD record and monitor officers' telephone interactions with the public, especially when addressing citizen complaints and concerns, to ensure the officers meet the applicable procedural and regulations requirements of CPD and the City of Cincinnati's requirements for all employees.
17130,18199	CCA recommends a review by CPD of its handling of and response to CCA's request for records in this matter to ensure CPD's compliance with article XXVIII and the Collaborative Agreement. It is imperative that CCA receive evidence from CPD in a timely manner to conduct a viable investigation. Article XXVIII Cincinnati Administrative Code Article XXVIII, § 3-B reads (in part), "The executive director of CCA shall have reasonable access to city records, documents, etc." In this case, CCA Investigators requested the BWC footage within CPD's 90-day retention period. CCA did not receive the requested records and was notified by CPD's Internal Investigations Unit that the records had not been "flagged" as they should have, and had already been deleted.

### **Officer Review and Training**

CCA Case No.	CCA Recommendation
19157	CCA recommends that Officer **** receive additional training in de-escalation techniques to prevent similar encounters in the future.
18229	CCA also recommends that Officer **** receive follow-up training in customer service and the application of policies, procedures, training in the areas of use of force, transporting and the use of de-escalation techniques to be able to decrease the potential need to use force and respond appropriately to levels of compliance or resistance.
18080	CCA recommends Officer **** receive further training on CPD Procedure § 12.412 as well as sensitivity training when working with domestic violence victims.
18120	CCA recommends Officer **** receive additional training in working with domestic violence victims as well as de-escalation techniques to prevent similar encounters in the future.
18070	CCA recommends that Officer **** receive additional training in de-escalation techniques and customer service skills to prevent similar encounters in the future.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches, seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches,

CCA Case No.	CCA Recommendation
	seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches, seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches, seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches, seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17227	CCA recommends that the officers receive follow-up training in the application of policies, procedures and training regarding consents to search, searches, seizures and vehicle impoundments as well as use this case in future trainings as an example of what and what not to do.
17205	CCA recommends that Officer **** receive further training in the use of de-escalation techniques to be able to decrease the potential need to use force and respond appropriately to levels of compliance or resistance.
17163,17041	CCA has noticed an increase in complaints and allegations against Officer **** and recommends that CPD review Officer **** record of complaints and allegations to determine if further training, counseling, remediation or change in assignment is needed.
17138	CCA highly recommends Officer ***** receive additional training in addressing citizens, including those in mental health crises as well as utilizing disengagement and no escalation methods.
18181,18158, 18092	CCA recommends that CPD review officers who have the same type of complaints and allegations filed against them to determine if further training, counseling or remediation is needed. This can serve as an initial warning to CPD that early intervention may be needed. All department personnel must recognize that their actions, both verbal and non-verbal, can play a significant role in the outcome and escalation or de-escalation of an interaction.
19058	Additional clarification may be needed that contact cards are required for any vehicle passenger or pedestrian detention which meets the definition of a "Terry" stop unless the stop results in an arrest or citation. Furthermore, CPD should not train its officers that self-initiated interactions do not require contact cards. To be proactive and ensure policy accountability and fairness, contact cards should be required no matter the type of stop, nor whether the stop may be considered self-initiated or not.
17162	CCA recommends that CPD instruct officers to thoroughly explain all the reasons why they were called to the scene to the citizens. CCA believes that thorough explanations to citizens could possibly reduce the amount of misunderstandings between CPD and citizens. If citizens are fully informed of the reasons for the questioning, it could possibly reduce the amount of citizen complaints filed against CPD officers, as well as foster better police/community relations.
18096	CCA recommends that Officer Smith receive training in use of force, foot pursuits, tactics, de-escalation techniques, and customer service skills,

CCA Case No.	CCA Recommendation
	particularly regarding interactions with juveniles, in order to prevent similar encounters in the future.

**Miscellaneous**

CCA Case No.	CCA Recommendation
18142	There appeared to be a lot of confusion by the individuals involved and bystanders regarding walking in the street; there appeared to be a common theme that others historically walked in the street, even with the sidewalks present. If that is the case, CCA believes that this may be an excellent time to engage this community regarding City pedestrian laws.
16247	CCA is unaware of a due diligence checklist for the identification of alleged suspects with open warrants for service. If one does not exist, CCA recommends that one be created and that it be required of all execution of warrants. This recommendation would be a proactive measure to ensure that there is due diligence in the identification of an alleged suspect, especially in a case like this one where the person has a common name.
17033	Since the FAS's primary role is to execute warrants, procedurally, all officers in that squad should carry Consent to Search forms when acting in the performance of their duties. If the FAS officers do not carry and provide the correct CPD approved documentation and forms in the performance of their duties, they should be held accountable.

**SUMMARY**

The City Manager's Office in coordination with Citizen Complaint Authority and the Cincinnati Police Department has identified 37 unique recommendations in response to Council's request for an update on CPD's response to prior CCA recommendations. The Administration will submit a follow up report to Council within 60 days detailing CPD's response to the identified recommendations.

cc: Jason Cooper, Division Manager, Criminal Justice Initiatives  
Gabriel Davis, Director, Citizen Complaint Authority  
Lt. Col Teresa Theetge, Executive Assistant Chief, Cincinnati Police Department

December 16, 2020

To: Mayor and Members of City Council **202002138**  
From: Paula Boggs Muething, City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, October 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of October 2020. A total of 37 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

**October 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>		1			<b>1</b>	1			<b>1</b>
<b>Dst. 1</b>	5	3	3		<b>11</b>	11			<b>11</b>
<b>Dst. 2</b>	1	1		1	<b>3</b>	2	1		<b>3</b>
<b>Dst. 3</b>	3	6	1	1	<b>11</b>	7	4		<b>11</b>
<b>Dst. 4</b>	3	4			<b>7</b>	7			<b>7</b>
<b>Dst. 5</b>	1	1	2		<b>4</b>	3	1		<b>4</b>
<b>All</b>	<b>13</b>	<b>16</b>	<b>6</b>	<b>2</b>	<b>37</b>	<b>31</b>	<b>6</b>	<b>0</b>	<b>37</b>



January 6, 2021

To: Mayor and Members of City Council 202002337  
From: Paula Boggs Muething, City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, November 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of November 2020. A total of 52 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

**November 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>				1	<b>1</b>	1			<b>1</b>
<b>Dst. 1</b>	5	6	2		<b>13</b>	12	1		<b>13</b>
<b>Dst. 2</b>					<b>0</b>				<b>0</b>
<b>Dst. 3</b>	4	6	2	1	<b>13</b>	13			<b>13</b>
<b>Dst. 4</b>	8	8	1	2	<b>19</b>	19			<b>19</b>
<b>Dst. 5</b>		2	3	1	<b>6</b>	4	2		<b>6</b>
<b>All</b>	<b>17</b>	<b>22</b>	<b>8</b>	<b>5</b>	<b>52</b>	<b>49</b>	<b>3</b>	<b>0</b>	<b>52</b>

January 13, 2021

To: Mayor and Members of City Council **202100021**  
From: Paula Boggs Muething, City Manager  
Subject: Marijuana-Only Warnings/Citations/Arrests Monthly Report, December 2020

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REFERENCE DOCUMENT #201901197

On August 7, 2019 the following item was referred for a report:

MOTION, submitted Vice Mayor Smitherman and Councilmembers Landsman and Sittenfeld and Pastor WE MOVE that the administration provide a monthly report to the Law and Public Safety Committee on the number of marijuana-only warnings/citations/arrests the Cincinnati Police Department has made by age, race, and neighborhood under City and state law. The report should include only warnings/citations/arrests for individuals with 100 grams or less of marijuana. The date to begin tracking the Marijuana violations is July 12, 2019 when the new marijuana city ordinance became law. (Statement Attached) (BALANCE OF MOTION ON FILE IN CLERK'S OFFICE)

**Response**

Attached is a report which breaks down the number of 910-23 warning violations issued by Cincinnati Police Officers during the month of December 2020. A total of 58 warnings were issued within the five districts and Central Business Section respectively. The race and age range of those receiving warnings is also broken down.

Attachment- 910-23 Monthly Warnings

CC: Colonel Eliot K. Isaac, Police Chief

**December 2020, CMC 910-23; Marijuana Ordinance Violations**

	<u>AGE BREAKDOWN</u>					<u>RACE BREAKDOWN</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>		<u>B</u>	<u>W</u>	<u>O</u>	
<u>District</u>	<u>18-25</u>	<u>26-35</u>	<u>36-45</u>	<u>46+</u>	<u>Totals per District:</u>	<u>Black</u>	<u>White</u>	<u>Other</u>	<u>Totals by Race:</u>
<b>CBS</b>					<b>0</b>				<b>0</b>
<b>Dst. 1</b>	3	4	1		<b>8</b>	7	1		<b>8</b>
<b>Dst. 2</b>	2				<b>2</b>	2			<b>2</b>
<b>Dst. 3</b>	4	4	2		<b>10</b>	9	1		<b>10</b>
<b>Dst. 4</b>	9	10	5	2	<b>26</b>	24	2		<b>26</b>
<b>Dst. 5</b>	5	5	2		<b>12</b>	11	1		<b>12</b>
<b>All</b>	<b>23</b>	<b>23</b>	<b>10</b>	<b>2</b>	<b>58</b>	<b>53</b>	<b>5</b>	<b>0</b>	<b>58</b>



2021 00060

**Christopher E. C. Smitherman**  
*Cincinnati Vice Mayor*

January 6, 2021

## MOTION

**WE MOVE** that the city administration release to the public the additional 2000 plus text messages associated with the “Gang of 5,” excluding any text messages related to personal matters.

Vice Mayor Christopher Smitherman

_____	_____
_____	_____
_____	_____
_____	_____

**Statement:** The taxpayers of Cincinnati have paid \$176,000 in legal expenses related to the “Gang of 5” text messages. These text messages have been the subject of numerous open records requests by a majority of our local media outlets. By being transparent, we can begin to restore the public trust in this institution. The additional 2000 plus text messages belong in the public domain for the citizens to review.

## MOTION

January 6, 2021

We MOVE that the City Administration take all necessary steps to amend the CPD Procedures based on the attached document—to ensure that CPD’s warrant-execution procedures will keep our communities and officers safe, protect more lives, and limit no-knock raids.

We FURTHER MOVE that the Administration should review this policy in consultation with the Manager’s Advisory Group. If the Administration seeks any changes/exceptions to the attached policy, the Administration should explain the basis for such changes/exceptions, secure input from the Manager’s Advisory Group, and then seek approval of such changes/exceptions by the Council, prior to further amending the procedure and implementing a policy.



ATTACHEMENT: PROPOSED PROCEDURE EDITS

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In Section 12.700 (B)(2), add requirements for affidavits seeking a search warrant.

- e. List the nature, sex, and estimated age of any occupants reasonably expected to be at the property to be searched. Among occupants listed, identify if each person is presently under investigation for alleged criminal activity or if the person is not presently under investigation for alleged criminal activity.**
  - f. State the officer's intended action if the person(s) for whom the search warrant is being issued, or any occupant of the property, does not respond to the door after a reasonable amount of time, which is longer than 60 second (e.g. proceed with a forcible entry or return to execute the warrant at a different time). The intent to utilize a forcible entry must be justified through the criteria of verifiable exigent circumstances, as defined in 12.700(D)(4).**
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In Section 12.700 (B)(5), edit as follows.

**5. Requesting a "No Knock" search warrant.**

- a. Members of CPD may not seek, execute, or participate in a no-knock warrant for any location within the boundaries of City of Cincinnati, except in circumstances involving an active-shooter, hostage situation, kidnapping, murder, or terrorism. This prohibition applies to members of CPD taking part in no-knock warrant operations run by task forces and multi-agency units.**
- a. b. When seeking a no-knock warrant, the affiant officer must add the following four points in addition to the probable cause listed in Section B.2.d. above.**
  - 1) The affiant officer must show explain: how the circumstance involve an active-shooter, hostage situation, kidnapping, murder, or terrorism; the specific reasons why the police need a "No Knock" waiver (e.g., violent history of suspect); and why police officers are unable to detain the suspect or search the premises without knocking or announcing their presence and using other less invasive methods.**
  - 2) The affiant officer must give the names and descriptions of armed suspects he believes may try to harm officers during the search. The officer must provide evidence and/or surveillance gathered 24 hours, or less, before executing to verify the armed suspect is present at the residence to be searched.**
  - 3) The affiant officer must give a statement showing a connection between the address in question and the criminal activity (e.g., the building owner states Jane Doe is the resident on record for apt. #5 at 1234 Smith St. and Jane Doe is the wife of suspect John Doe).**
  - 4) The affiant officer must add the following waiver just above the area where the judge signs the warrant: "Furthermore, for good cause shown, I waive the statutory precondition for nonconsensual entry."**

**b. c.** After review by a command officer (captain or above), contact the City Prosecutor. The City Prosecutor will contact a judge and arrange for a court reporter to record the proceedings.

1) If other than normal business hours, contact the City Prosecutor through ECC.

**e. d.** All "No Knock" search warrants are high risk search warrants requiring the use of SWAT.

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In Section 12.700 (D), on "Gaining Entry," make the following changes.

1. A supervisor will be on the search warrant scene during the service of all search warrants.
  2. Secure the perimeter of the premises before entry. Have all doors and windows under observation.
  3. Officers will physically knock on an entry door to the premises in a manner and duration that can be heard by the occupants, clearly notify persons inside the search site of their presence as law enforcement having a search warrant, and request admission.  
Example: "Police officers, search warrant, open the door."
  4. Use force to enter the premises only after waiting if: 1) the officer(s) have knocked and announced themselves for a reasonable amount of time for an occupant to open the door, or 2) there are verifiable exigent circumstances.
    - a. A "reasonable amount of time" is that time necessary for an occupant to reach the door from the furthest part of the premises. This must be at least 60 seconds.
    - b. "Verifiable exigent circumstances" is defined as an event occurring in real-time that can create serious bodily harm or death to an officer or an occupant of the property. A verifiable exigent circumstance may be perceived through video footage, documentation, or witness statements. Examples of verifiable exigent circumstances could include: hearing a round being chambered in a gun, seeing through a window an occupant or hostage held by a firearm, etc. If, while waiting for the door to open, there is some sign the occupant is fleeing, fortifying their position, destroying evidence or contraband, or taking action that would jeopardize the safety of the officers, force open the door immediately.
    - c. Upon entry, have one officer continue to announce the identity and purpose of the entering officers.
    - d. To the extent possible, CPD officers taking part in forcible entry shall be clearly recognizable and identifiable as police officers in uniform. Officers shall wear visible badges containing names and identification numbers.
      - 1) Officers not in uniform will display proper identification (e.g., badge, ID, etc.) when serving the search warrant.
      - 2) A uniformed officer of the local law enforcement agency will be present during the search.
  5. The supervisor in charge will complete an after action report when warrant service required forced entry.
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In Section 12.700 (E), add as the following and renumber subsections. Alternatively or additionally, amend in 12.540 to reflect the following.

1. **All CPD officers present in the execution of a warrant shall be equipped with an operating body worn camera (BWC). No later than five minutes prior to all warrant executions, each officer on the premises must activate their BWC and may not deactivate the equipment any sooner than fifteen minutes following the completion of the execution of the warrant.**
    - a. **All recorded data must be retained for at least seven years following an executing action and must be accessible for review by the Citizen's Complaint Authority, City of Cincinnati, and City Council members.**
    - b. **The recorded data shall be stored in a separate electronic file category designated for this purpose.**
- 

Add the following information as Section 12.700(G), or into the "Policy" portion of Section 12.700, or as appropriate in Section 12.700.

#### **G. Accountability and Public Interest**

1. **Any officer who violates Section 12.700 will be subject to discipline (up to and including termination), possible criminal prosecution, and/or civil liability.**
2. **Any officer who is suspected of obtaining or executing a warrant/search by means of deceit, deception, fraud, maliciousness, or gross negligence, shall be investigated by a supervising officer and shall be subject to discipline (up to and including termination), possible criminal prosecution, and/or civil liability. The matter shall not be investigated by any officer who participated in obtaining or executing the underlying warrant/search (unless there is no such officer). An officer at the rank of lieutenant or higher will review the investigation and ensure that appropriate disciplinary or corrective action is taken. Such instances shall also be communicated to the Citizen's Complaint Authority.**
3. **If an affiant officer knowingly gives untruthful information in an affidavit under this section, that matter shall be referred to the appropriate prosecutor's office.**