

 **Roll Call Number**

Agenda Item Number

71- I(B)

Date June 22, 2020

Community Alliance Via NAACP Letter to Des Moines City Council and Mayor re Antiracial profiling ordinance.

Moved by _____ to receive and file documents and comments.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

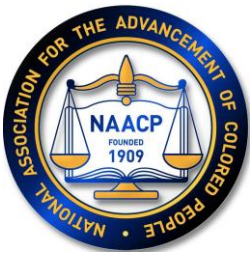
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk



IOWA-NEBRASKA NAACP STATE AREA CONFERENCE OF BRANCHES

National Association for the Advancement of Colored People
1620 Pleasant Street, Suite 210, Des Moines, IA 50314
515.288.7171 | 515.729.2969 c | IowaNebraskaNAACP.org
Betty C. Andrews, President

MOVING POWERFULLY FORWARD! →

June 15, 2020

Frank Cownie, Mayor
Members of the City Council
Scott Sanders, City Manager
Jeff Lester, City Attorney
City of Des Moines
400 Robert D. Ray Drive
Des Moines, Iowa 50309

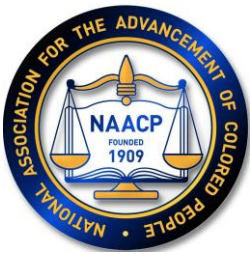
Dear Mayor Cownie, Members of the City Council, City Manager Sanders, and City Attorney Lester:

Dr. Martin Luther King, Jr., during his August 28, 1963 *I Have a Dream* speech at the Lincoln Memorial, declared, “Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood. Now is the time to make justice a reality for all of God's children.” George Floyd’s murder put this country and this city face to face with the urgency of “Now.” We write today to ensure that justice is “a reality for all.”

Throughout the June 8, 2020 City Council meeting we were moved by the Mayor and several council members’ resounding remarks declaring their support of efforts to address racial injustice with emphasis on the need to listen to the communities impacted. This meeting was followed by a June 11 joint meeting of the Des Moines Civil and Human Rights Commission and the Council where we heard more of the same noble refrain. During the June 8 City Council Meeting yet a second Anti-Racial & Ethnic Profiling ordinance passed a first reading, though the final wording on the ordinance was only delivered to the community hours before its first reading. As reported to Council by the Community Alliance and other citizens, this timeframe made it impossible to properly vet such an important measure. In the end, we left the meeting with expectation for additional communication, because the second and third readings were not waived. This type of communication is critical because the “Now” should never outweigh the “justice.”

Now that we have had the time to review the proposed ordinance we are confident that we can get to a great final product and look forward to working with each of you to do so. We write to address the core issues remaining in the negotiation of an Anti-Racial & Ethnic Profiling Ordinance for the City of Des Moines: (1) a Community Policing Practices & Review Committee (CPPRC); (2) a Citizens or Civilian Review Board (CRB); and (3) Lower-level enforcement of Marijuana Possession.

The addition of the CPPRC, with its strong ongoing community voice and all stakeholders at the table, is a vital addition to the Ordinance that is essential to secure approval of the ordinance by the Alliance. The CRB and marijuana enforcement issues are also central to the goals of a robust and effective Anti-Racial & Ethnic Profiling Ordinance; however, we are prepared to allow resolution of those two issues to be moved to the future after careful but expeditious study by Council working groups created specifically for each of those issues. Let us begin with discussion of the necessity of the CPPRC.



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Throughout the negotiations the City Manager has insisted that no standing committee appointed by the Mayor and Council is acceptable. The Manager has dictated that the only option was a Policy and Practice Review Committee,¹ an advisory committee to the City Manager that he would appoint himself and be comprised solely of city employees and members of existing city committees. Such a committee has no independence as it is not included in the Ordinance and can be disbanded or disregarded at any time by the Manager. It lacks the stature of a Standing Committee. More seriously, without community representation it lacks credibility. Indeed, the PPRC does not purport to represent the voice of the community, and that failure is fatal. It also makes no provision for one critical stakeholder, the Chief of Police or his or his designee, who needs to be involved and to engage with the community on community policing issues. Further, the Manager's proposed committee does not provide for public meetings with notice that would enable members of the community to be heard on policing practices and policies. In sum, the fundamental flaws of the PPRC are the same as those of the DMPD's unbiased policing internal "policy." Both must be strengthened, AND both must be incorporated into "law," specifically, the Anti-Racial & Ethnic Profiling Ordinance. At this critical time in our history, mere policies and internal processes in the promulgation or shaping of which the City Council does not participate, that can be changed without review by the Council, and that provide no opportunity for community representation or input accomplish nothing.

The CPPRC Committee that the Alliance has proposed would be a Standing Committee, appointed by the Mayor and approved by the Council. It must be inclusive, and bring all the stakeholders to the table, including the Chief of Police. We propose a 9-member committee.² Like Sanders' proposal, it includes two members of the Human Rights Commission and one sworn police officer. In addition, the CPPRC would include the Chief of Police, three members from

¹ Policy and Practice Review Committee (PPRC)

PPRC is focused on reviewing data and recommendations for policy and practice modifications to improve code and law enforcement policies and practices.

Scope

PPRC meets at least quarterly, or more frequently as PPRC determines, to review existing and planned policies and practices, and makes recommendations to ensure elimination of existing or potential disparities.

Duties and Responsibilities

- Reviewing law enforcement and neighborhood code enforcement data for existing or potential disparities in practices
- Reviewing law enforcement and neighborhood code enforcement policies
- Providing advice and recommendations to the City Manager, Chief of Police and Community Development Director on policy and practice matters

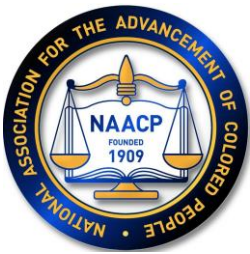
Membership

PPRC is comprised of three members of the Des Moines Civil & Human Rights Commission, one member from the Housing Appeals Board, one staff member from Community Development Department, and one sworn officer member from Des Moines Police Department. All members must be confirmed by City Manager.

Staff Support

Staffing support to the PPRC is provided by the CMO.

² The City Council shall appoint, effective February 14, 2021, a Community Policing Practices & Review Committee ("the Committee") comprised of two members from the Des Moines Civil and Human Rights Commission ("the Commission"), the Chief of Police or his or her designee, one sworn officer from the police department, three members from community groups that have been historically associated with efforts to eliminate racial discrimination or that work with victims of racial and ethnic profiling, and two members of the community who have a distinguished record of public service. One member of the Committee should be at least sixteen years of age and not more than twenty-four years of age at the time of appointment.



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community groups that have been historically associated with efforts to eliminate racial discrimination or that work with victims of racial and ethnic profiling, and two members of the community who have a distinguished record of public service. One member should be in the 16 to 24-age group, the group most frequently targeted for pretextual stops. Such an inclusive Community Committee is in the interest of the DMPD and the Council as well as the Community, and the appointment and composition of the CPPRC is one major difference from the PPRC that the Manager proposed. Clearly, having 1,300 interested citizens observing a City Council meeting via a Zoom conference is not an effective way to present, discuss, and resolve problems of the magnitude and intensity of policing practices and policies. The mission and functions of the CPPRC represent a second major difference.

The NAACP leadership—NAACP State Conference President Betty Andrews, Russell Lovell, and David Walker—attempted to explain the mission of the CPPRC at the June 8 Council meeting, but only in broad brush terms due to the very brief time allotted them. Let us clarify now. First, the CPPRC and a Civilian Review Board (CRB) serve two very important but distinct functions. The Alliance does not view this as a choice between the two—*both are vital to community policing*. The CPPRC has a systemic focus, rather than the review of individual complaints of misconduct that is the mission of a CRB. The purposes of the CPPRC are (1) “to provide the Community with a direct, ongoing voice on how they are policed and the authority to review unbiased policing policies, practices, and procedures, strategies, operations, resource deployment, and public safety generally and (2) [to] provide advice and make recommendations to the Department and the Council on policy and practice matters.”

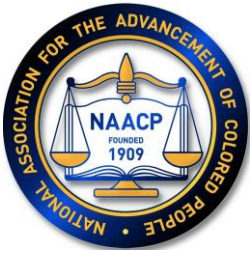
The purpose and mission of the CPPRC encompass the mission and responsibilities of the Policy and Practice Review Committee proposed by the City Manager, but they also make clear that the CPPRC will be an ongoing voice of the community on policing policies and practices. The PPRC as proposed by the Manager:

Duties and Responsibilities

- Reviewing law enforcement and neighborhood code enforcement data for existing or potential disparities in practices;
- Reviewing law enforcement and neighborhood code enforcement policies; and
- Providing advice and recommendations to the City Manager, Chief of Police and Community Development Director on policy and practice matters.

There is nothing in the CPPRC that is inconsistent with the PPRC’s duties and responsibilities.

Because of the immense public interest and demands for a Committee that will provide the Community with a strong, ongoing voice on community policing, it is necessary to clarify the CPPRC’s systemic purpose and responsibilities in implementing the anti-racial and ethnic profiling law. That requires additional detail to the brief description in the PPRC. The additional detail in the CPPRC description also distinguishes its role from the resolution of individual misconduct complaints, which is the role of a Civilian Review Board, and makes clear the CPPRC is not intended as a replacement of a CRB. Finally, it is essential to the Alliance that the CPPRC be directed to provide its advice directly to the Council as well as to the Department *and* that its meetings be public. There has to be a way for the community’s elected leaders to hear from the community other than through a City Council meeting with 1300 and more people trying to get in or the community having to make itself heard in the streets.



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The time is now for the CPPRC.³ The CPPRC is not a Citizens' Review Board with a focus on individual complaints, rather it has a systemic focus on patterns, practices, and policies, and, in the words of the Leadership Conference on Civil Rights *New Era Policing* Recommendation 1.6 (p. 19): "Gives [the] Communit[y] a Direct, Ongoing Say in Police Practices."

"The cornerstone of community policing is an authentic, cooperative relationship between police departments and the communities they serve. Many leaders reduce community policing to outreach efforts such as basketball games with community members or "coffee with a cop." While valuable, these efforts won't effect change on their own. [C]ommunity policing is not merely a series of programs or initiatives; it is an overarching philosophy that hinges on community involvement in departments' decision-making processes."

The CPPRC will "ensure that core departmental values reflect community values and communicate them to all department members." Recommendation 9.1 (p. 262).

To reiterate, the CPPRC and the CRB have distinctly different missions. While the CRB does not have the systemic focus of the CPPRC, its purpose is of equal importance, holding officers accountable through a structured mechanism that ensures individual complaints of police misconduct are scrutinized and decided by a body independent of the police. The CRB reform is one that we insist be explored through a Council working group over the next nine months. We ask for such a commitment today from the Council to create such a Working Group with Council, DMPD, and Community Alliance representation. The Alliance recognizes more research is necessary before codification of a CRB can be considered.

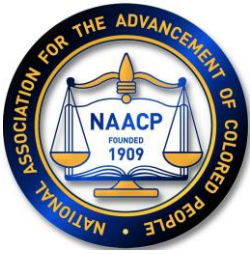
Similarly, we ask that the Council create a second Working Group to study and make recommendations regarding methods to make enforcement of the offense of possession of marijuana a low priority for the DMPD (and perhaps police departments within Polk County) and city and county prosecutors. The Johnson County diversion program for marijuana offenses has been in existence for over a decade and warrants careful study.

<https://jcjusticecenter.com/resources/marijuana-diversion-program-requirements/>. Rachel Zimmerman, the Assistant Johnson County Attorney who oversees the program, is willing to come to the Drake Legal Clinic to discuss the program in a public setting and to meet with other interested stakeholders, such as a working group we ask the Council to appoint, and the Polk County Attorney and Supervisors. Student legal services in Johnson County offers assistance to persons who need assistance understanding the diversion program option. <https://legal.studentlife.uiowa.edu/resources/johnson-county-marijuana-diversion-program-2/>.

Finally, the Alliance prepared a Memorandum of Understanding (MOU,) for the signature of City Manager Sanders, setting forth numerous commitments and assurances that the City Manager made to the Alliance in a letter to the Alliance dated March 3, 2020 and throughout the negotiations as well. On June 8th the

City Manager advised us "that he doesn't sign MOUs." His refusal to sign the MOU makes members of the Alliance question whether the commitments and assurances made in the March 3rd letter and during negotiations will be fulfilled.

³ Our draft defers the start date of the CPPRC until February 2021 to allow time for the consultant to complete his or her study and report and have data for the committee to review and analyze. We of course would prefer the committee commence its work earlier, as there are other responsibilities that it could undertake while it awaits the data.



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So we have enclosed the unsigned Memorandum of Understanding setting forth our understanding of the input the Alliance is to have in the selection of the consultant, the scope of the consultant's mission, the opportunity to meet with the consultant, and the City Manager's commitment to engage in continuing dialogue after enactment of the Ordinance, on a range of issues, ranging from limitations on pretextual stops to a review of the roles of OPS and the Civil Service Commission.

Lastly, we believe that on June 22, during the City Council Meeting, we could all have a win. The City Council could present an ordinance that we are all able to stand behind. It is only a matter of taking the time to truly hear each other and work through the differences. To that end we would like to hold three sessions to explain our amendments and address questions or concerns that any Council member may have. We will host Zoom calls on Wednesday June 17 at 12 PM and 8 PM; and on Thursday June 18 at 7 PM. We understand the meeting limitations and would not include more than three Council members at a time. Please just let us know which session you would like to attend. Alternatively, if there is an opportunity for us to be on the agenda during an official work session, we would be happy to do that too, though we would prefer it not be the day of the June 22 meeting. We are also available if any of you would like to give us a call. Please let us know your thoughts. Thank you for your consideration as we all move forward towards ensuring justice for all.

Sincerely,

Betty C. Andrews, President, Iowa-Nebraska NAACP
Russell Lovell and David Walker, Co-Chairs, Legal Redress Committees
Des Moines and Iowa-Nebraska NAACP

Sharon Zanders Ackiss, CCI Special Projects Director
Members of the Racial Justice Committee

Daniel Zeno, Policy and Advocacy Director, ACLU of Iowa

Other Concerned Organizations and Citizens Rev. Fred Gaddy and Harvey Harrison

Encl. Alliance Amendments to proposed Anti-Racial and Ethnic Profiling Ordinance
Memorandum of Understanding (unsigned)

CC: Des Moines Mayor & Jeff Lester, City Attorney

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding Article III, Sections 86-42, 86-43, 86-44, 86-45, 86-46, and 86-47, regarding unbiased policing.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by adding Article III, Sections 86-42, 86-43, 86-44, 86-45, 86-46, and 86-47, regarding unbiased policing, as follows:

Article III. Unbiased Policing

86-42. Policy Statement.

86-43. Definitions.

86-44. Prohibitions and Procedures.

86-45. Complaints and Compliance.

86-46. Training.

86-47. Annual Review.

ARTICLE III. UNBIASED POLICING

Sec. 86-42. Policy Statement.

The City of Des Moines and the Des Moines Police Department shall be committed to the unbiased, equitable treatment of all. Department employees shall treat all in a fair, impartial and objective manner, in accordance with law, and without consideration of their individual demographics as defined in this Article.

Sec. 86-43. Definitions.

Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

Biased Policing means differential treatment in the performance of law enforcement duties or delivery of police services towards a person or classes of persons when one or more individual demographics was a motivating factor in the action taken. If a person's **individual demographics played any part** in the city employee's decision, then that personal characteristic was a motivating factor of the action taken.

Fair and Impartial Treatment means persons, irrespective of individual demographics, are treated in the same manner under the same or similar circumstances. Reasonable concessions and accommodations may be made, when dealing with individuals with physical, developmental or mental disabilities, injury, illness, deafness, blindness, substance abuse disorders or similar conditions, **individuals whose primary language is a language other than English, individuals of various cultural backgrounds, and individuals of youthful age, or when information about a person** legally necessitates different treatment.

Individual Demographics means personal characteristics to include, but not limited to: race, creed, color, ethnicity, national origin, ancestry, religion, age, gender, sex, gender identity/expression, sexual orientation, socioeconomic status, disability, immigration status, familial status, housing status, occupation, language fluency, cultural group, political status, or source of income, or any other identifiable characteristics.

Police Services means actions and activities that contribute to the overall well-being and safety of the public. These tasks include but are not limited to: crime prevention and investigation, preventive patrol, traffic control, traffic accidents, medical emergencies and lifesaving services, assistance at fire scenes, public information and education.

Racial Profiling means that form of biased policing where a motivating factor of the action taken is based on an individual's race, color, ethnicity, religion or national origin rather than on the individual's behavior or on information of the type and kind customarily and reasonably relied upon in identifying the individual as having engaged in prohibited activity. Racial profiling includes but is not limited to vehicle, pedestrian, and bicycle stops **or temporary detentions** where race, color, ethnicity, religion or national origin was a motivating factor for the stop or enforcement action taken during the stop.

Specific subject description-based identification means a reasonably detailed physical description of the personal identifying characteristics of a potential suspect or victim, including but not limited to age, sex, ethnicity, race, or English language proficiency.

Sec. 86-44. **Prohibitions and Procedures.**

(a) Fair & Impartial Treatment

(1) Biased policing is prohibited both in enforcement of the law and the delivery of police services by any employee.

(2) Racial Profiling is prohibited both in enforcement of the law and the delivery of police services by any employee. Any stop or temporary detention for an offense, including a scheduled violation, in which the race, color, ethnicity, religion or national origin of the person stopped played any part in the employee's decision to make the stop or to detain the person for the purpose of investigating a separate and unrelated suspected offense, including a scheduled violation, is prohibited.

(3) Employees shall exercise their authority and act to accord fair and impartial treatment to all persons.

(4) Employees shall not consider individual demographics when performing law enforcement duties or delivering police services except when such characteristics are part of a specific subject description-based identification.

(5) Employees shall not use any terms, language or remarks that are derogatory, tend to belittle, show contempt for or defame any individual demographic, except when necessary to include such terms, language or remarks used by another for the preparation of official reports or testimony.

(6) Employees must be able to articulate reasonable suspicion or probable cause supporting any police action.

(7) Employees shall not take any law-enforcement action based on information from members of the public or other employees that they know, or reasonably should know, under all circumstances present is the product of, or motivated by, bias based on individual demographics unless the circumstances indicate that harm is imminent or a crime has been committed.

(b) Department Policies and Procedures Accessible to the Public. All department's policies and procedures shall be made available to the public through publication readily accessible to the public. Publication shall occur on the web pages of both the department and the city council; hard copies shall be available at the department headquarters and available for reading there. The effective date for this subsection is July 15, 2020.

(c) Community Policing Practice and Review Committee

The City Council shall appoint, effective February 14, 2021, a Community Policing Practices & Review Committee ("the Committee") comprised of two members from the Des Moines Civil and Human Rights Commission ("the Commission"), the Chief of Police or his or her designee, one sworn officer from the police department, three members from community groups that have been historically associated with efforts to eliminate racial discrimination or that work with victims of racial and ethnic profiling, and two members of the community who have a distinguished record of public service. One member of the Committee should be at least sixteen years of age and not more than twenty-four years of age at the time of appointment.

(d) The Committee: Purpose and Responsibilities

The purposes of the Committee are (1) to provide the Community with a direct, ongoing voice on how they are policed and (2) to review unbiased policing policies, practices, and procedures, strategies, operations, resource deployment, and public safety generally and provide advice and make recommendations to the Department and the Council on policy and practice matters

The Committee shall:

- (1) Evaluate the collection, compilation, and reporting of traffic, bicycle, and pedestrian stop data by the Department reported to the Council and the Commission;
- (2). Review the stop data for existing or potential disparities in practices and, appropriate, make recommendations to ensure elimination of existing or potential disparities and for improvement of the data collection process, data analysis, and transparency of the data, including public access to the data;
- (3) Review the analysis of such data by the Commission and consider the effectiveness of the Department's efforts to prevent biased policing through training, supervisors' oversight, and complaints to the Department's Office of Professional Standards ("OPS") and to the Iowa Civil Rights Commission ("ICRC"), and make recommendations for improvements;
- (4) Facilitate discussion within the Community about public safety, racial and ethnic profiling, and biased policing, and the development of performance metrics that reflect the values of community policing;
- (5) Work in partnership with state and local law enforcement agencies to review and analyze profiling across geographic areas of this state;
- (6) Consult evidence-based research on intentional and implicit biases, their impact on law enforcement stop, search, and seizure tactics, and the development and implementation of policies and practices to counteract such biases;
- (7)
 - (a) Issue an annual report that provides the Committee's analysis of its activities required by paragraphs "1" through "6," makes detailed findings on the past and current status of profiling, and makes policy recommendations for eliminating profiling and other biased or discriminatory practices.
 - (b) The report shall be retained and made available to the public by posting the report on the Department's website. The report shall first be issued by January 15, 2022, and by January 15 every year thereafter.
 - (c) The report is a public record within the meaning of chapter 22 of the Iowa Code subject to public inspection under chapter 22.
- (8) The Committee shall hold at least four public meetings annually. At the request of two or more members of the Committee, the Committee shall hold a special meeting, which shall also be a public meeting. The board shall provide notice to the public of the location of

each public meeting at least thirty days before the date of the meeting, except in the case of a special meeting. In the case of a special meeting, the Committee shall give such notice as is practicable under the circumstances. In necessary circumstances, the Committee may decide that any meeting of the Committee may be held virtually.

Sec. 86-45. Complaints and Compliance.

(a) Employees who witness or who are aware of instances of biased policing or racial profiling shall report the incident to a supervisor and shall provide all information known to them before the end of the shift during which they make the observation or become aware of the incident or as soon thereafter as practicable under the circumstances. Where appropriate, employees are encouraged to intervene at the time the biased policing or racial profiling incident occurs and **in any event** shall report such biased policing or racial profiling to a supervisor as soon as practicable under the circumstances; **where such an incident threatens serious bodily harm or life, employees shall intervene unless intervention would likely aggravate a dangerous situation, and shall promptly report the incident to a supervisor.**

(b) Any employee who opposes any practice occurring in violation of this Article shall not be discriminated against in any manner for opposing such practice, testifying, assisting or participating in any investigation, proceeding or hearing arising out of this Article.

(c) Supervisors shall ensure the working environment is free of bias and free of racial profiling. This oversight responsibility may include periodic inspections of body and in-car audio/video systems, traffic stop data, reports and field inspections during police/citizen interactions. Supervisors shall:

(1) Take the appropriate action when a violation of this Article occurs.

(2) Ensure that there is no retaliation for individuals reporting such violations.

(d) Any person claiming to be aggrieved or to have witnessed biased policing or racial profiling may file a complaint. No person shall be discouraged, intimidated, or coerced from filing such a complaint, nor shall any person be discriminated or retaliated against because he or she has filed a complaint of this nature.

(1) **Des Moines Civil and Human Rights Commission.** The Commission shall educate the public about the ICRC and OPS complaint processes, the mission of each and the relief each can provide. Commission staff shall offer to assist, and shall assist, complainants in preparing and filing a complaint alleging biased policing or racial profiling with the ICRC or OPS, or both.

(2) **Employee discipline.** Complaints of biased policing or racial profiling shall be directed to OPS, or, if the complainant prefers, to the Des Moines Civil and Human Rights Commission, which shall perform an intake function, providing assistance to the individual in drafting the complaint and in filing the complaint with OPS. If an individual files a complaint directly with OPS, OPS may pursue its own investigation and shall in any event deliver a copy of the filed complaint to the Commission. Upon receipt of a copy of the OPS complaint from OPS,

the Commission shall perform an intake function and, if the individual so desires, provide assistance to the individual in drafting a complaint and filing it with the Iowa Civil Rights Commission.

(3) **Civil Remedies.** Complaints of biased policing or racial profiling that assert a claim for damages or other remedies can be filed with the Iowa Civil Rights Commission. The ICRC has jurisdiction over racial profiling complaints against law enforcement as such complaints allege discrimination in public accommodations by a local government unit that offers services to the public based on the individual demographics prohibited by the Iowa Civil Rights Act, Iowa Code Sec. 216.7. See also, Iowa Code Sec. 216.2(13) as now adopted or hereinafter amended. **The remedies afforded by the Iowa Civil Rights Act are not exclusive and do not foreclose a person from asserting any remedies he or she may have based on the Federal or Iowa Constitutions, Federal or Iowa Codes, or common law.**

Sec. 86-46. Training.

At least annually all sworn officers shall receive and participate in training and guidance in regard to unbiased policing and prohibited racial profiling while conducting law enforcement activities and police services, which training **shall include de-escalation, cultural diversity, cultural competency, and implicit bias** and may include, but is not limited to: training on subjects related to police ethics, police-citizen interaction, standards of conduct, conducting motor vehicle stops, and related topics suitable for preventing incidents of biased policing and racial profiling.

Sec. 86-47. Annual Review.

This topic and policy under this Article will be reviewed annually and the City Manager shall certify such review to the City Council no later than the first day of the fiscal year.

Section 2. Racial profiling and biased policing are violations of this Article. Any penalty for violation of this new Article III related to any employee not acting in conformity therewith shall be limited to that provided under state or federal law, which violation may include serving as cause for discipline up to and including termination from employment as consistent with federal and state law requirements including Iowa Code Chapters 400 and 20 as applicable. The limitation related to violations of this new Article III related to employee violations of Article III is not intended to expand or limit any other remedy or cause of action available under state or federal law, nor to expand or restrict the time for seeking such remedy or cause of action and shall not be construed as doing so, nor as conferring jurisdiction on the Des Moines Civil and

Human Rights Commission but, pursuant to § 86-45(d) Commission staff shall assist individuals who desire to file any complaint with to the Iowa Civil Rights Commission for investigation and resolution. The declaration of the prohibitions set forth in this Article shall not create any new or separate legal rights or claims by or on behalf of any third party and shall not be construed as a waiver, modification, or alteration of any available defense or governmental immunity of the city under federal or state law.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

/S/ Douglas P. Philip

Douglas P. Philip
Assistant City Attorney