

ORDINANCE 18-12
TO AMEND TITLE 2 (ADMINISTRATION AND PERSONNEL)
OF THE BLOOMINGTON MUNICIPAL CODE

Re: Adding Chapter 2.86 (Prohibitions Associated with the Use of the Critical Incident Response Team Armored Rescue Vehicle)

WHEREAS, in the interest of cultivating the Guardian mindset to community policing,¹ the Bloomington Police Department (BPD) has undergone extensive training in matters related to peaceful and responsive engagement with the community including, but not limited to, the following:

- De-escalation training
- Diversity training
- Implicit bias training
- Training in engaging with individuals with mental illness; and

WHEREAS, in the interest of cultivating the Guardian mindset to community policing, BPD has implemented a number of programs intended to engage closely with the community, prevent and remedy individual and social problems, and provide greater accountability:

- Since 2013, BPD has successfully operated the *Downtown Resource Officer* program, whereby dedicated officers work closely with those in need to link those suffering from social, economic, and health needs with the resources they need
- Since 2013, BPD has dedicated \$100,000 of its annual budget to support staffing at social services agencies such as the Shalom Community Center, Centerstone, and other agencies
- Since 2014, BPD has employed the regular use of body cameras

WHEREAS, BPD has implemented programs to engage in policing that is conducted *in partnership with* our community, *not to* our community, such as:

- *Coffee with a Cop*
- *National Night Out*
- *Banneker, Blue and You*
- *Citizens' Police Academy*
- *Teen Police Academy*
- *Police Explorer Group*
- *Neighborhood Resource Officer Program*
- *Cops in Schools*
- Safety Training for Children
- Involvement in the cross-jurisdictional Crisis Resolution Team involving overdoses
- Involvement in the Domestic Violence Task Force

WHEREAS, the Council finds that BPD's Guardian mindset to policing is responsible, equitable, and respectful and is the best model of true protection for our community; and

WHEREAS, on March 29, 2018, the Mayor announced his decision to move forward with the purchase of a Critical Incident Response Team vehicle ("CIRT Rescue Vehicle) for use by the Critical Incident Response Team ("CIRT"); and

WHEREAS, the CIRT is a cross-jurisdictional team of highly-trained law enforcement officers deployed only to handle especially hazardous police duties, such as conducting rescue operations in hostage situations, to address active shooter situations, to rescue injured persons in areas inaccessible to normal rescue operations, to dislodge barricaded suspects, and to complete high-risk warrant service; and

WHEREAS, the *Risk Assessment Matrix* issued by the Chief of Police and supported by the Board of Public Safety directs that the CIRT would be deployed to execute warrant service only in high-risk circumstances where there is an articulable threat to officers or citizens as a result of the actual use, or potential use, of firearms or other destructive devices; and

¹ This approach fosters communication over commands, cooperation over compliance, legitimacy over authority, and patience and restraint over control, *See*, Seth Stoughton, *Law Enforcement's "Warrior" Problem*, 128 Harv. L. Rev. F. 225, 231 (2015).

WHEREAS, deployment of the CIRT and deployment of the CIRT Rescue Vehicle are two separate and independent actions: there are circumstances in which the CIRT may be deployed without deployment of the CIRT vehicle; however, the CIRT Rescue Vehicle would not be deployed absent deployment of the CIRT; and

WHEREAS, in the last 15 years, the national climate of policing has shifted – in particular, in some communities where a “warrior” mindset is operative, armored vehicles have been used against non-violent, unarmed community members; and

WHEREAS, such abuses are unconscionable and clearly antithetical to BPD’s Guardian mindset of policing and clearly antithetical to the City of Bloomington’s goal of policing that is fair, empowering, respectful, accessible, and participatory; and

WHEREAS, the Council has very strong confidence that the CIRT Rescue Vehicle would never be used by our current Mayor nor current Chief of Police, in a way that is incongruent with a Guardian mindset of policing; and

WHEREAS, however, as the local legislative body charged with protecting the health, welfare, and safety of our community, the Council wishes to ensure that certain prohibited uses of the vehicle extend beyond this Council, beyond this Chief of Police, and beyond this Administration; and

WHEREAS, while the Board of Public Safety and the Chief of Police exercise control over both BPD and BPD’s equipment, the Council may regulate the exercise of that control, *City of Fort Wayne v. Bentley*, 181 Ind. App. 114 (1979); and

WHEREAS, among other powers, Council has statutory authority to pass ordinances for the control of the city’s property, I.C. § 36-4-6-18; and

WHEREAS, local government may regulate the use or possession of property that might endanger the public health, safety, or welfare, I.C., § 36-8-2-4; and

WHEREAS, where the manner of exercising a power is not otherwise provided, statute provides that a legislative body adopt an ordinance prescribing the specific manner for exercising such power, I.C. § 36-1-3-6; and

WHEREAS, the Chief of Police has prepared a new *General Order* regulating the use of the CIRT Rescue Vehicle; and

WHEREAS, among other directives regulating the use of the CIRT Rescue Vehicle, the *General Order* includes key prohibited uses of the vehicle; and

WHEREAS, the Board of Public Safety will consider a resolution on June 19, 2018 supporting the Chief of Police’s adoption of an *Armored Rescue Vehicle General Order*; and

WHEREAS, while the Board of Public Safety has indicated its support for the Chief of Police’s *Armored Rescue Vehicle General Order*, such orders are highly dependent on the both the Chief of Police and Mayor in office – such orders could be amended by a subsequent Chief of Police or a subsequent Mayor; and

WHEREAS, the Council finds that the very nature of the CIRT Rescue Vehicle and its history of misuse in other communities warrants that certain prohibitions related to the features and the use of such vehicle be solemnized in the Bloomington Municipal Code; and

WHEREAS, codifying such proscriptions makes these prohibitions readily accessible and knowable to the public, future decision-makers, and future administrators and also ensures that any subsequent proposal to change these prohibitions will be subject to the Council’s democratic notice and law-making process whereby the public may attend, observe, record, and comment on what transpires, *See, Barry Friedman & Maria Ponomarekno, Democratic Policing*, 90(6) N.Y.U. L. Rev., 1827 (2015);

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. A new chapter of the Bloomington Municipal Code, Chapter 2.86 "Prohibitions Associated with Use of the Critical Incident Response Team Armored Rescue Vehicle" shall be added to the table of contents and the text of Title 2 and shall read as follows:

Chapter 2.86 "Prohibitions Associated with Use of the Critical Incident Response Team Armored Rescue Vehicle"

2.86.010 Purpose

The purpose of this ordinance is to protect the health, welfare, and safety of the community by ensuring that any Critical Incident Response Team Armored Rescue Vehicle is not used in a manner discordant with a Guardian mindset of policing. The ordinance makes this assurance by prohibiting certain uses and features of the vehicle.

2.86.020 Definitions

Critical Incident Response Team (CIRT) means a special operations group whose members are sworn employees of the Bloomington Police Department and employees of other agencies assigned through a Memorandum of Understanding (MOU). The primary mission of CIRT is to preserve life and protect property. CIRT achieves this by utilizing specially equipped officers who have received tactical training in the handling of especially hazardous police duties.

Critical Incident Response Team Armored Rescue Vehicle means a specially-designed vehicle that is armor-plated to protect the occupants from bullets or other destructive devices and that can perform rescues due to its ability to navigate difficult terrain.

2.86.030 Prohibited Uses and Equipment

(a) Prohibited Uses. A Critical Incident Response Team Armored Rescue Vehicle shall not be used in the following manner:

- (1) For the purpose of crowd control;
- (2) During public demonstrations.

(b) Prohibited Equipment. The following equipment is prohibited for use on the Critical Incident Response Team Armored Rescue Vehicle:

- (1) Affixed firearms;
- (2) Water cannons;
- (3) Any other affixed device capable of launching or firing a projectile.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 27th day of June, 2018.


DOROTHY GRANGER, President
Bloomington Common Council

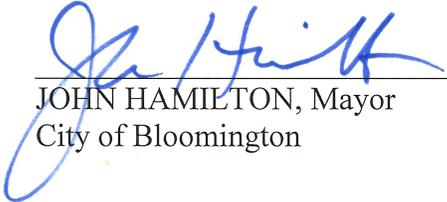
ATTEST:


NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 28th day of June, 2018.


NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 21 day of July, 2018.


JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance is sponsored by all members of the Common Council and amends Title 2 (Administration and Personnel) of the Bloomington Municipal Code by adding a new Chapter to the Code, Chapter 2.86, entitled “Rules Governing the Use of Critical Incident Response Team Armored Rescue Vehicles.” The ordinance tracks the current Bloomington Police Department’s adherence to a the Guardian mindset, endorses that mindset, and codifies certain prohibited uses and features of a Critical Incident Response Team Armored Rescue Vehicle in the interest of assuring that such vehicle will not be misused well into the future – beyond the current Chief of Police and the current Mayor. These changes are made in the interest of protecting the health, welfare, and safety of the community and in the interest of providing that any future change to the prohibited uses of the Critical Incident Response Team Armored Rescue Vehicle is subject to the Council’s democratic rule-making process.

Note: This ordinance was amended by Am01 which revised 2.86.030(a)(2) to remove the word “non-violent” preceding “public demonstrations” and made minor corrections to the ordinance’s numbering scheme.