



BLOOMINGTON COMMON COUNCIL

RESPONSES TO QUESTIONS POSED BY COMMUNITY MEMBERS AT THE COUNCIL'S "TOWN HALL LISTENING SESSION" ON THE PURCHASE OF A CRITICAL INCIDENT RESPONSE TEAM (CIRT) VEHICLE TUESDAY, 20 FEBRUARY 2018

Thank you to everyone who took the time to attend the City Council's Town Hall last week and to ask questions. Thank you also to others who wrote the Council with additional questions. We promised that we would document your questions and provide responses by Tuesday, 27 February 2018. Those responses follow. In reviewing, please note that some questions were specific to the City Council and others – indeed most – were specific to the City's Administration. For those questions, the responses are those of the Administration. The answers identify the respondent.

Thank you again for your advocacy and for your thoughtful questions.

-- Dorothy Granger, Council President

-- Isabel Piedmont-Smith, Council Vice President

27 February 2018

ROLE OF THE COUNCIL

- **What will the Council do besides listening and speaking words?**

From Council: The Council is actively working to learn more about the vehicle, the steps that led to its purchase, and what recourse the Council and the City has at this juncture. We held a “Town Hall Listening Session” because not only did we want to provide the community with an additional forum to express their concerns, but also because, at the time of the forum, we were still seeking answers. We still are. In addition, as a result of the community concern associated with the purchase of the CIRT vehicle, we are actively exploring ways that Council might exact greater oversight both of the process that led to this purchase and of the use of any such vehicle. For example, regarding the former, we might ask of the Administration a more detailed budget proposal in the form of a program budget during our annual budgeting process. When it comes to the latter, we are exploring our authority to pass legislation directing that any armored vehicle is used in a manner that comports with policies for such use. As outlined below, such policies are in process.

- **What are you going to do to prove to us that you will listen to us at this meeting?**

From Council: We have documented the questions that participants raised at the listening session and, as promised, have reduced the answers to writing. As spelled out above, we are also exploring our options that may include change to both policy and/or procedure.

- **Did the City Council vote on this purchase**

From Council: No. See answers that follow for further details.

- **What can citizens do to make council reconsider?**

From Council: Council did not vote on the purchase of this CIRT vehicle. The decision to purchase this vehicle at this time was that of the Administration. Therefore, the Council did not “consider” during this year’s budgeting process and cannot “reconsider” such purchase.

However, as the legislative body, we are not powerless. Like all of government, we represent the people, the community. We are listening to the community and to BPD. We want our officers to be safe and we want the community both be and feel safe. We are exploring options that might address all of these concerns.

The Administration is considering options and will announce a decision by the end of the March. We will be working closely with the Administration and the public toward a resolution of concerns during this period.

- **When did the City Council discuss this prior to the Tuesday information session?**

From Council: Members of the City Council learned of this purchase at about the same time as the public – the H-T article about the City’s annual Public Safety Report presented on Tuesday, February 6th. Between then and the Listening Session, Council members conversed about it among themselves and with constituents, staff, and Administration.

- **If there is no recorded public information session prior to the informational session, why wasn’t there?**

From Council: As noted above, the Council President Granger called for the Listening Session within a few weeks of the Council first learning about this purchase. There wasn’t time to arrange the Listening Session much earlier than that Tuesday. For a timeline for the disclosure of this purchase and a plan for further deliberations before a decision by the Mayor, please see the City of Bloomington Press Release issued on Friday, February 23rd.

- **Where was the vehicle listed in the budget for Bloomington?**

From Council: The vehicle was not listed in the FY 2018 Budget and was not presented to the City Council for a vote. An “armored vehicle” was listed in a 5-year capital plan offered by BPD to the PS-LIT Committee in 2016. The vehicle was listed for purchase in 2019. Four members of the City Council sit on the PS-LIT Committee. The specifics of this vehicle (such as whether it was to be another Brinks-type vehicle or something else altogether) were not provided. The PS-LIT Committee did not vote specifically to purchase this vehicle.

- **What rubric did council use to come to the decision of the Bearcat?**

From Council: The Council did not make the decision to purchase the Lenco BearCat, the decision was made by BPD and the Administration. The criteria the Administration used to decide to purchase the BearCat specifically, are detailed elsewhere.

THE CIRT VEHICLE

What it is. What it is not.

- **What are the exact specs of the vehicle?**

From Administration: The quote can be found at:

https://bloomington.in.gov/sites/default/files/2018-02/Lenco_Quote_Invoice.pdf

- **What are the other vehicle options?**

From Administration: There are a number of vehicle options available. The manufacturer Lenco offers several models of armored vehicles. The Lenco Bear is larger than the BearCat and allows for more payload. It is more expensive and might have difficulties maneuvering in tight spaces. They also have the BearCat which we have already discussed. Other armored vehicle options range from armored SUV's that have limited payload capacity to military vehicles. The BearCat is a law enforcement specific vehicle which, according to the Administration best meets the needs of the department and the community.

- **What were the other vehicles that were reviewed and under what qualifications were they dismissed?**

From Administration: The process took several years and a number of other options were investigated. According to the Administration, this vehicle best fit the community's needs. More information regarding this question can be found at:

<https://bloomington.in.gov/news/2018/02/17/3182> and
<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

The Need

- **What are the statistics on officer and public safety concerns that would warrant this type of vehicle?**

From Administration: Information regarding statistics concerning public safety can be found at: <https://data.bloomington.in.gov/group/public-safety>.

For recent local scenarios in which such a vehicle might be used, please consult the Executive Report issued by BPD on 19 February 2018 at:

<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

- Who is this vehicle going to protect?**
From Administration: This vehicle will be used to protect the officers of the Bloomington Police Department and other police agencies in Monroe County. Specifically the officers assigned to the Critical Incident Response Team which is a multi jurisdictional team consisting of members from BPD, MCSD, and IUPD. Also, according to the Administration, the deployment of the vehicle will be used to protect community members and visitors in Bloomington and Monroe County in the event an immediate and deadly threat occurs.
- What are the statistics on misuse of this type of vehicle in other communities?**
From Administration: “Misuse” is subjective and we are unable to find statistics based on this question.
- Regarding the books that were thrown, what is the point of the book? What is one thing you learn from reading it? What is one question you have after reading it? What is one thing you have done towards answering that question?**
From Council: This is largely a rhetorical question. Council has not had time within the space of a week to read the books that were thrown. Indeed, the Council does not know the titles of all the books thrown.
- Please have BPD provide a complete justification (backed by research and data).**
 Please consult the Executive Report on the purchase of this vehicle, linked here:
<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

Use of the Vehicle

- **What are the guidelines for deployment of the SWAT team?**

From Administration: The BPD follows the guidelines presented by the ACLU during crisis situations. These guidelines include the following:

- CIRT is only deployed when it is clear that civilian or police lives are in imminent danger.
- Each deployment of CIRT/SWAT has supervisor approval before deployment.
- Preceding each deployment, there must be a written plan regarding the details of each situation, including whether pregnant women, children, or the elderly will be present in the situation.
- Each deployment includes a trained crisis negotiator.
- SWAT team members should be equipped with body cameras.
- Following all incidents, a post-crisis report should be made detailing all aspects of the situation. This includes, but is not limited to, the tactics used, backgrounds of all involved parties, casualties, evidence obtained, and the purpose of deployment.

These guidelines have all been implemented in the critical response process of BPD.

More of these guidelines can be found at the following link:

<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

Please note that BPD uses a Risk Assessment Matrix to determine when a CIRT team is required for service. The matrix is included on p. 28 of the *Executive Report: The Bloomington Police Department Planned Purchase of a Lenco Bearcat Armored Vehicle*, linked here: <https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

- **What kind of threat is there needed to deploy the SWAT team?**

From Administration: As stated above, CIRT/SWAT is only deployed when civilian or law enforcement lives are in imminent danger. More information regarding the circumstances of deployment can be found here:

<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

- **How will the council protect black, indigenous, and people of color from the police and other law enforcement agencies? How will the council protect lesbians, gays, bisexuals, transgender people and queer people from the police and other law enforcement agencies?**

From Council: The Board of Public Safety is the statutory board charged with oversight of the police department and charges of police misconduct. Harassment on the basis of a protected category is illegal. While the Council does not have direct oversight over the police department, for decades, the Council has been at the forefront of protecting and defending our community's most vulnerable. We've sent clear messages that discrimination based on a protected category has no place in our community. The Mayor and the Bloomington Police Department agree.

Since 1965, the City has had a commission devoted to protecting human rights. Since 1993, the City of Bloomington has had a Human Rights Ordinance, protecting our residents against discrimination. Over time, the Ordinance has grown to include more protection for more populations. Currently, the Ordinance protects community members against discrimination based on race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran. Note that our Human Rights Ordinance protects more vulnerable classes of persons than is provided by state and federal law, including mandatory enforcement provisions for claims of discrimination based on sexual orientation and gender identity. We also go beyond state and federal requirements in protecting individuals against discrimination on the basis of housing status. See Bloomington Municipal Code, § 2.21.020

In addition, the Bloomington Human Rights Commission engages in outreach intended to build awareness and foster an environment of inclusion. The City of Bloomington and its community members have worked hard to make our community an inclusive and welcoming one. Bloomington remained the only city in the state to obtain a perfect score in the 2017 Human Rights Campaign Municipal Equality Index. Bloomington has received a perfect score for three years in a row.

- **How will the council protect people with mental illness from the police and other law agencies?**

From Administration: The Bloomington Police Department has received extensive training in dealing with individuals experiencing mental illness.

- **How is this going to help students who are barricaded in a school?**

From Administration: This will allow rescuers to get close enough to safely extract the students. An armed gunman can set up a situation that would keep rescuers away from areas where hostages and/or citizens are trapped. If those citizens are injured the ability to extract them and get them necessary medical treatment can be delayed. An armored vehicle will allow rescuers to safely approach the area and not only bring officers to deal with the threat, but to safely extract hostages and civilians from the area so they can receive the necessary immediate medical care.

- **Why is our response to school shooting “let’s just increase the military response” instead of “why do people have these in the first place?”**

From Council: The CIRT was not a response to school shootings.

From Administration: The vehicle will be used to safely transport the CIRT and used in rescue situations for those people they are responding to help.

- **How do these vehicles protect police officers after they enter a building since they have to get out of the vehicle after arrival?**

From Administration: It does not protect officers inside a building. It protects on the approach to and egress from locations. Members of the CIRT train frequently to properly enter, search, and move through buildings and other structures. Their training involves tactically and safely moving through those structures. Open areas, however, are impossible to move through without exposing them to dangerous and deadly gunfire.

- **Will the city be loaning this vehicle?**

From Administration: This vehicle will not be loaned. The vehicle will always be under the direct use and control of the Bloomington CIRT and will follow the policies and procedures set forth by the department to govern its use.

- **Will the City be reimbursed for the usage?**

From Administration: There are no plans to seek reimbursement for the usage of this vehicle at this time. Mutual aid is a common practice among public safety departments and charges are not currently made between departments.

- **How do you guarantee that after this power is given that it will be used in the right way?**

From Council: The Council serves as the legislative and fiscal body of the City who “pass[es] ordinances, orders, resolutions, and motions for the government of the City, the control of its property and finances, and the appropriation of money.” IC §36-4-6-18. The policies recommended by the American Civil Liberties Union¹ set forth in Attachment 1 of the Executive Summary are a useful reference for policies regarding use of the CIRT vehicle. To assure that a CIRT vehicle will be used properly, no

¹ *War Comes Home – The Excessive Militarization of American Policing.*

matter who is in charge of its use, the Council is exploring our authority to pass legislation directing that any CIRT vehicle be used in a manner that comports with those policies.

From Administration: The department currently has policies and procedures in place to deal with the use of CIRT. We are also in the process of creating more specific General Orders that will address when this vehicle will be used and also when it will NOT be used. Any use of this vehicle requires the authorization of the Chief of Police.

- **How will we be assured that the communities who use this vehicle act in “good faith”?**

From Administration: This vehicle will only be used by our CIRT. The use is governed by policy and must be approved by the Chief of Police. If another agency or community request the vehicle and the Chief grants permission based on guidance from our policies and procedures then our CIRT team will also respond. If at any time the other agency wants the vehicle to be used in a manner outside our policies or guidelines the permission for use would be withdrawn.

- **How do you resist the temptation to use it irresponsibly?**

From Administration: Before the CIRT is activated, multiple layers of approvals are required from the command staff. At any level of command the CIRT use can be denied. Included in that is a Risk Assessment Matrix and Operational Plan. Our officers are highly trained and strictly adhere to both written policies and a departmental and community culture that prohibits irresponsible use of force. As stated in the question above, the department has specific policies and procedures that govern the use of CIRT. We are also creating specific policies and procedures that will govern the use of the armored vehicle. We had a vehicle like this for over 12 years and never used it irresponsibly.

- **What training is needed to operate this vehicle?**

From Administration:The vehicle is based on a Ford F550 Pickup Truck. The Ford F550 is operated like any other pickup truck you commonly see on the road today. Our officers will receive specific training on operating the vehicle in emergency situations. Each officer will complete an emergency vehicle operations course specific to this vehicle. Under Indiana State law there is no specialty licensing to operate a vehicle of this class. There are specific law enforcement armored vehicle operations courses that officers will be attending.

- **What are the loaning guidelines?**

From Administration: The vehicle will not be loaned.

- **How will loaning be tracked?**

From Administration: It will not be loaned out.

- **If the vehicle is misused, will the City Council, Mayor, and BPD be held accountable? How?**

From Council: The City and Council has established many boards and commissions which hold meetings, oversee programs, and make recommendations to the Mayor and Council. Through participation with boards and commissions and comments to these governing bodies, the public has a powerful means of holding the Council accountable. The Council needs timely and accurate reports and will share those reports with the public in order to keep the public informed. Ultimately, the Council and other elected officials are accountable to the voters. The Council welcomes feedback regarding the governance of the City at public meetings where residents have an opportunity to express their concerns about proposed legislation and the performance of programs and public officials in general.

From Administration: The use of the vehicle is strictly regulated by guidelines. Checks and balances among BPD, the Board of Public Safety and the Administration ensure the review and assessment of each use.

- **If it is misused, will we remove the vehicle from loaning or will we remove it in its entirety?**

From Administration: The vehicle will not be loaned.

Alternatives

- **Would another vehicle such as a Brinks truck be a better option for compromise?**

From Administration: Other vehicles such as a used Brinks truck (which is not well designed for this application) or a military MRAP (highly militarized and requiring special training) would not fit the community needs, according to the Administration, for a variety of reasons such as maintenance, training and usage costs, service life, and usability. The city currently owns a number of Ford F550 pickup trucks and not only are the city's mechanics trained in how to repair and maintain those vehicles, commonly needed parts are kept on hand for quick repairs.

- **Is there another vehicle in town the City could use (e.g. National Guard Armory)?**

From Administration: There are laws that prohibit local law enforcement agencies from using US Military equipment.

- **Are there alternatives that could be used to protect police officers?**

From Administration: There are very few manufacturers overall and after investigation and review of the available options, the Bearcat was the vehicle that best aligned with the needs of our police department.

- **Could Chief Diekhoff outline how he would be able to do it (perform CIRT functions): a) without further equipment; b) with the BearCat; and c) with some vehicle short of the BearCat?**

From Administration: These answers are addressed in the Executive Report, linked here: <https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

The Purchase

- **Why did it take nine months of us not having this conversation and why are we just having this conversation now that this purchase has already gone through?**

From Council: Because we only found out about the purchase of the vehicle on 06 February 2018.

From Administration: Because this purchase was a replacement for an armored vehicle already in service for many years without controversy, this level of controversy was not anticipated by the Administration. Not anticipating the concern some community members would have about the purchase was a mistake, an apology has been made and efforts to fully address concerns are in process.

- **Where is the contract for citizens to view? If it is not available, when can we expect it to be available?**

From Administration: Documents relating to this issue can be found at: <https://bloomington.in.gov/police/armored-vehicle>

- **When will the police admit that it is a mistake to purchase this vehicle?**

From Administration: The Administration does not believe that the purchase of this vehicle is a mistake. We believe that the purchase of this vehicle is necessary to protect the lives of our officers and the lives of citizens of Bloomington and Monroe County.

- **What are the options available to get out of the deal to purchase the vehicle?**

From Administration: Under Section 11 of the Terms and Conditions of the contract with Lenco, the City does not have a right to unilaterally terminate the contract, and if it does terminate early, the City would be liable for all damages and expenses for the termination up to the unpaid portion of the purchase price, plus the manufacturer's reasonable expenses related to the early termination

If the City fails to pay for the completed vehicle, that would be a default under Section 8 of the Terms and Conditions, for which the manufacturer could hold the City responsible for the entire cost of the purchase. The manufacturer could also attempt to sell the vehicle to another customer and charge the City for any loss on the sale.

- **What it would mean to breach this contract?**

From Administration: See previous response.

- **How plan to halt this purchase?**

From Administration: See previous response.

- **Why is it that the City of Bloomington residents are paying 100% of the bill that will be used by the county as well?**

From Administration: The cost for this vehicle is being paid for out of Bloomington's share of the Public Safety Income Tax, which is collected from Monroe County residents, the majority of whom reside in Bloomington.

- **Are the county commissioners and county council involved?**

From Administration: County officials do not control PS LIT funds designated for City of Bloomington use.

OTHER

- **What is the policy for deployment of flashbang grenades?**

From Administration: Flashbang, otherwise known as “stun grenades,” are classified by the BPD as Noise Flash Diversion Devices (NFDDs). They are used to create a distraction so as to “facilitate the rescue of endangered persons and/or the apprehension of the suspect(s).”

NFDDs are only deployed within the following parameters (taken from the link below):

- In all but the most extreme circumstances, NFDDs shall not be used when small children (under 5 years of age) or elderly adults are known to be present.
- No NFDD constructed with an ejecting submunition shall be used in an indoor environment.
- NFDDs shall be deployed with due regard to the safety of all persons by officers trained in their use who have visually scanned the targeted area prior to NFDD insertion.

More info can be found at the following link under **Section F**.

<https://bloomington.in.gov/sites/default/files/2018-02/Bloomington%20Police%20Department%20Armored%20Vehicle%20Acquisition%20Executive%20Report-7.pdf>

- **How much de-escalation training has every officer had?**

From Administration: De-escalation is part of use-of-force training. Each of our officers receive approximately 15 hours of use-of-force training each year. Additionally, CIRT officers train monthly in various aspects of successful crisis response. Specially trained crisis negotiators accompany the CIRT team on each call out, as do specially trained paramedics.

- **Why doesn't the Council invite our representatives (Donnelly, Hollingsworth, Young) to discuss why they don't support proper gun control?**

From Council: This is a critical issue and the Council has been vocal about its call for smarter gun regulation. Many may know that the Indiana General Assembly has considerably constrained our ability to regulate guns on a local level. Indeed, if we attempt to regulate pistols at the pool or rifles at a parade, the City is subject to treble damages – steep monetary damages borne by Bloomington taxpayers. In response to this wrong-headed approach, Councilmember Chopra sponsored, and the Council unanimously passed, *Resolution 17-14: Supporting Responsible Gun Regulations: Calling for the Repeal of IC 35-47-11.1 and Supporting Universal Background Checks* on 22 March 2017. A copy of the legislation is linked here:

<https://bloomington.in.gov/council/legislation/Resolution/2017/17-14>

However, advocacy for common sense gun regulation is an on-going and a community effort. Moms Demand Action has been a powerful advocacy force in our community. We invite others to join this effort and to partner with the City Council in advocating for change on both the federal and State levels. As to the specific question posed, the

Council will consider issuing such an invitation or working with community groups such as the League of Women Voters to bring about such a forum.

- **If the worry here is school shootings, what is the Council doing to prevent shootings outside of providing the police with more weapons?**

From Council: While the Council has no direct control over the schools, it has supported increases in the tax levy for MCCSC. More importantly, for over 20 years, the Council and Mayor have allocated about \$3.4 million towards social service programs and projects with a high priority given to at-risk youth (as well as other vulnerable populations) and spending money early in order to prevent harms later.