



Agenda

City Council Policy Session

Tuesday, August 24, 2021

12:00 PM

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OPTIONS TO ACCESS THIS MEETING

Request to speak at a meeting:

- **Register online** by visiting the City Council Meetings page on phoenix.gov **at least 1 hour prior to the start of this meeting**. Then, click on this link at the time of the meeting and join the Webex to speak: <https://phoenixcitycouncil.webex.com/phoenixcitycouncil/onstage/g.php?MTID=e850802cc61ac5d4a1b754a20a26eeb2d>

- **Register via telephone** at 602-262-6001 **at least 1 hour prior to the start of this meeting**, noting the item number. Then, use the Call-in phone number and Meeting ID listed below at the time of the meeting to call-in and speak.

At the time of the meeting:

- **Watch** the meeting live streamed on phoenix.gov or Phoenix Channel 11 on Cox Cable, or using the Webex link provided above.

- **Call-in** to listen to the meeting. Dial 602-666-0783 and Enter Meeting ID 2556 317 4783# (for English) or 2553 048 4500# (for Spanish). Press # again when prompted for attendee ID.

Para nuestros residentes de habla hispana:

- **Para registrarse para hablar en español**, llame al 602-262-6001 **al menos 1 hora antes del inicio de esta reunión** e indique el número del tema. El día de la reunión, llame al 602-666-0783 e ingrese el número de identificación de la reunión 2553 048 4500#. El intérprete le indicará cuando sea su turno de hablar.

- **Para solamente escuchar la reunión en español**, llame a este mismo número el día de la reunión (602-666-0783; ingrese el número de identificación de la reunión 2553 048 4500#). Se proporciona interpretación simultánea para nuestros residentes durante todas las reuniones.

CALL TO ORDER**CALL FOR AN EXECUTIVE SESSION**

A vote may be held to call an Executive Session for a future date.

DISCUSSION AND POSSIBLE ACTION (ITEM 1)**1 Ballard Spahr Investigations**

This item provides a summary of the findings from the investigations conducted on behalf of the City Manager's Office by Ballard Spahr, LLP.

A. October 17, 2020 Protests

This report provides a summary of the findings from the investigation conducted on behalf of the City Manager's Office by Ballard Spahr, LLP, into the criminal street gang charges filed against a group of protestors who marched in downtown Phoenix on Oct. 17, 2020 (**Attachment A**).

B. Challenge Coin

This report provides a summary of the findings from the investigation conducted on behalf of the City Manager's Office by Ballard Spahr, LLP, into challenge coins and related memorabilia circulated among Phoenix police officers depicting the shooting of a protestor during an August 2017 protest outside the Phoenix Convention Center (**Attachment B**).

THIS ITEM IS FOR DISCUSSION AND POSSIBLE ACTION.

Responsible Department

This item is submitted by City Manager Ed Zuercher and the City Manager's Office.

ADJOURN

For further information or for reasonable accommodations, please call the Management Intern, City Manager's Office, at 602-262-4449 or Relay 7-1-1 as early as possible to coordinate needed arrangements.

Si necesita traducción en español, por favor llame a la oficina del gerente de la Ciudad de Phoenix, 602-262-4449 tres días antes de la fecha de la junta.



Ballard Spahr Investigations: October 17, 2020 Protests

This report provides a summary of the findings from the investigation conducted on behalf of the City Manager's Office by Ballard Spahr, LLP, into the criminal street gang charges filed against a group of protestors who marched in downtown Phoenix on October 17, 2020.

THIS ITEM IS FOR DISCUSSION AND POSSIBLE ACTION.

Summary

The City retained Ballard Spahr to conduct an independent inquiry into the Phoenix Police Department's role in the decision to prosecute the protestors with criminal street gang charges.

The Ballard Spahr report found the following:

- The decision to charge the protestors under the criminal street gang statute was made collaboratively among officials of the Phoenix Police Department ("PPD") and Maricopa County Attorney's Office and included consultation with other law enforcement agencies.
- This collaboration pointedly omitted PPD's Gang Enforcement Unit ("GEU"), a specialized team of police responsible for identifying and investigating criminal street gangs and their members, which, as a matter of operational policy, is required to lead gang-related investigations because of the highly specialized nature of such investigations. There is strong suggestion that this was done to sideline those likely to object to charging the protestors as members of a criminal street gang.
- Nevertheless, those investigating the protestors sought buy-in from GEU in the late stages of its investigation. A PPD official with supervisory authority over GEU refused, having determined that the investigation was being conducted inappropriately and that it risked doing substantial harm to GEU's credibility.
- Compounding PPD's investigative failures is that police relied on non-credible

evidence wholesale, without critically evaluating the other, directly contradictory information it possessed at the time. To further support its case, PPD officials took steps in direct contravention of the department's rules and procedures - conduct that in and of itself warrants further investigation.

These findings are taken seriously and are being addressed as follows:

- At the recommendation of Ballard Spahr's investigators as well as in follow-up to an April 19 letter to Chief Williams from the Maricopa County Attorney's Office, the City Manager has asked the City of Tucson to conduct further investigation of potentially criminal matters arising from this report. Ballard Spahr did not have authority to recommend or institute specific discipline of any City employees; they defined areas the City should follow-up for further investigation. Appropriate discipline for involved employees will be determined through the City Manager's Office and Human Resources at the conclusion of their investigation.
- Immediate discipline and reorganization of certain Police Department staff. Administrative investigations have been opened on all staff having a role in the report.
- In addition to their original tasks, the city's contracted external review team, 21 CP Solutions, has been tasked to provide an assessment of the Downtown Operations Unit and the Tactical Response Unit and recommend to the City Manager and Police Chief the appropriate reforms to these units. This information will be presented to the City Council.
- In this case, Chief Williams was not informed by her staff of critical decisions. She has taken action to re-organize her executive team. Chief Williams has been directed to develop a plan for establishing clear protocols to elevate significant issues to the Police Chief without the option to delegate, in areas including:
 - Recommendations to deviate from Department policy or Operations Orders;
 - Issues of significant employee misconduct;
 - Issues that concern the offices of the City Manager, Mayor and City Council; and
 - Any other issue of great significance to the City or Department.
- Chief Williams has been directed to write new policies or strengthen existing

policies to deter any future activity in the following areas:

- Gang charging protocols and standards;
 - Protection of 1st Amendment rights of all protestors;
 - Appropriate oversight and review of coordination with the Maricopa County Attorney's Office on criminal charges for protestors and all other charges; and
 - Oversight to ensure appropriate review by the Special Investigation Detail.
- Despite PPD's assurances that Ballard Spahr would be provided with whatever information it believed necessary, on various occasions documents were either provided weeks or months after Ballard Spahr's initial requests; on other occasions PPD appears to have ignored requests for information altogether. PPD provided no explanation whatsoever for such delays. It has been communicated to Chief Williams that such conduct be addressed and corrected within the department.

Responsible Department

This item is submitted by City Manager Ed Zuercher and the City Manager's Office.



Ballard Spahr Investigations: Challenge Coin

This report provides a summary of the findings from the investigation conducted on behalf of the City Manager's Office by Ballard Spahr, LLP, into challenge coins and related memorabilia circulated among Phoenix police officers depicting the shooting of a protestor during an August 2017 protest outside the Phoenix Convention Center.

THIS ITEM IS FOR DISCUSSION AND POSSIBLE ACTION.

Summary

The City retained Ballard Spahr to conduct an independent inquiry into the creation and circulation of challenge coins within the Phoenix Police Department.

The Ballard Spahr report found the following:

- The creator of the image of the protestor or the creator of the challenge coin could not be determined; as the report notes, the image appeared on social media postings the day after the event and soon appeared on items offered for sale online including by certain alt-right groups.
- It does not appear that City funds were used to create or purchase challenge coins or related memorabilia with the images at question, though city resources such as interdepartmental mail service were employed in distribution of the coins.
- Some challenge coins and memorabilia were exchanged or purchased among and by officers on City property and on City time.
- Officers understood the "Making America Great..." phrase had a political connection to the campaign of the former president.
- The investigation found no evidence of City employees having knowledge of a connection to hate speech, and no finding of any City of Phoenix employee linked to white supremacist ideology in using, distributing, or possessing the protestor image or the challenge coin.

However, Ballard Spahr's investigation does lead to other concerning findings that raise significant issues that are being addressed, including:

- Distribution of a coin identified with the Phoenix Police Department that uses a phrase - "Good Night Left Nut" - that has ties to hate speech, regardless of whether the employees knew of those ties.
- Use of partisan political speech - "Making America Great Again..." - on a coin circulated among PPD.
- Creation, use and circulation of a disrespectful image of a protestor being shot in the groin by a Phoenix police officer.
- Distribution by supervisors to subordinates of items that potentially violate police policies.
- Use of informal investigations without documentation to validate their efficacy.
- A lack of follow-up by executive police leadership.
- Limits placed on Ballard Spahr's investigation by the police officer bill of rights and the City's MOU with the Police union.

The City Manager has taken these findings seriously and is addressing them as follows:

- Individuals are being formally investigated by the Professional Standards Bureau for their role in creating or distributing the coin or other memorabilia in violation of existing Police Department policy. The result of the PSB investigation may be discipline issued to individual employees based on PSB findings. Chief Williams has already received discipline.
- In addition to their original tasks, the city's contracted external review team, 21 CP Solutions, has been tasked to provide an assessment of the Downtown Operations Unit and the Tactical Response Unit and recommend to the City Manager and Police Chief the appropriate reforms to these units. This information will be presented to the City Council.
- Any TRU personnel named in the report will no longer serve in the TRU.

- Chief Williams has been directed to write new policies or strengthen existing policies to deter any future activity in the following areas:
 - Prohibiting hate speech;
 - Prohibiting disparaging images, slogans or statements about residents, protestors or clients of the Police Department;
 - Prohibiting political speech while on duty;
 - Guidelines requiring specific approval from the Chief's office for the creation and distribution of commemorative items, including challenge coins; and
 - Guidelines for gifting of items by supervisors to subordinates.
- Chief Williams has been directed to create a new procedure for department supervisors and executives for documenting informal investigations to ensure transparency.
- The limits to their investigation encountered by Ballard Spahr arise from Ballard's status as non-city employee investigators. This limitation will be addressed in the future through an independent review team of city employees, which the Council has created in the Office of Accountability and Transparency (OAT).

Responsible Department

This item is submitted by City Manager Ed Zuercher and the City Manager's Office.