

ON-BODY CAMERA SYSTEM FOR POLICE OFFICERS

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

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✓ King Bishop Stulze	_____	_____
left ✓ Ben Heckman		
left ✓ shamus Cooke	PRTC coalition	
✓ Hyung Nam	PRTC coalition	

ON-BODY CAMERA SYSTEM FOR POLICE OFFICERS

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✓ DAN HANDELMAN	PORTLAND COPWATCH	
✓ KIRAN ASMUTH	FILM THE POLICE PDX.COM	ENCORE POLITICAL SERVICES @ hotmail.com

12/10 SUBMITTED BY ROGER
DAVIS HARDESTY

Portland Right to the City Coalition

PORTLAND • FOR • THE • PEOPLE

For immediate release.

Portland Right to the City Coalition Demands Police Accountability

1. We demand preconditions before granting the consent of the governed, to add body-worn cameras to other surveillance tools and procedures, already in use. Prior to adoption, there must be a proven mechanism for holding police accountable for their misconduct. Prior to adoption, City Council must make raw stop 'n frisk data available to The People, to establish a track record that we'll have a history of timely, unfettered access to records. Prior to inclusion of these new record keeping devices, The People must have transparency in License Plate Scanner and Gang Designation Records operations; to understand existing Bureau intentions, and their data acquisition and retention strategies.

-DMV

Should The People consent, given the complexity of this intended program, prior to adoption, we demand continued, broad community influence over adoption: we demand retention of these records be by a citizen-based authority, outside the influence of PPB perpetrators of illegal use of force; and that this standing body become responsible for verification of officer compliance, assuring public access to these records, and for alerting prosecutors and PPB's Training Division to deficiencies in officer conduct. Once the City establishes pathways to termination for misconduct, we demand police failing to operate cameras in critical incidents, or those likely to unmask the corrupt culture, be terminated for cause.

2. We demand City Council drop its appeal of Judge Michael Simon's request for annual updates on the success or failure of reform. We value judicial oversight and think it wiser for Judge Simon to determine the scope of testimony he will require, to determine whether a valid pursuit of justice is under way.

3. We demand the Police Commissioner and City Commissioners use their appointments to the Community Oversight & Advisory Board to seat community members who have experienced police violence. Rather than political appointees; we echo demands raised by the mental health community: houseless persons, black men and boys, sexual minorities, and others with direct, lived experience of civil rights deprivations will ensure the community most impacted by police violence have oversight and voices in guiding reform. They'll best help in obtaining redress from grievances and assessing program effectiveness.

PPB Comdr. KRAE
18 NOV

4. We demand City Council convene their first annual review of the 2009 Police Plan to Address Racial Profiling. As a precondition, we demand the Police Commissioner convene the public – as a distinct entity – to advise on new police strategies now required to meet Plan objectives.

5. We demand City Council renegotiate the contract it last year offered the Portland Police Association. As a precondition, we demand the Police Commissioner convene the public to receive demands, for elimination of arbitration features which have defeated the will of City Council to terminate officers for misconduct, to remove the '48-hour rule,' and to mandate officer drug-testing following use-of-force incidents.

ERB
lawsuit
OR Ct Appeals
9750k as of
2012

To be delivered Wednesday, 10 December 2014, to Portland City Council, as public testimony regarding Mayor Hales' Agenda Item 1276: seeking authorization of a 7 November proposal to divert funds and contract for the purchase of an on-body camera system, valued at not more than one million dollars.

For further information, see www.righttothecitypdx.org or call Jo Ann Hardesty at (503) 957-4364.

Whistle blowers

The News Tribune

Previous Story

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Cost and logistical issues limit local police interest in body cameras

By Stacia Glenn

Staff writer December 7, 2014

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*Royallop
&
open records law*

There is a trend among law enforcement jurisdictions, including in Washington state, to have officers wear cameras like this one.

STAFF ILLUSTRATION; PHOTOS FROM THE ASSOCIATED PRESS

Spurred by the deadly police shooting in Ferguson, Missouri, and President Barack Obama's call to outfit officers with body cameras, law enforcement officials are considering whether the cameras could improve transparency and protect officers.

Lakewood police began weighing the pros and cons even before a spotlight was shined on the subject. The department launched a pilot program in mid-October.

Other law enforcement agencies in Pierce County have expressed interest in body cameras but are hesitant to proceed until questions about cost, privacy and record retention are answered.

Those issues could be untangled as early as January, when the Legislature could tackle the subject.

"We think body cameras offer transparency and accountability, but we also don't think they should enable

8020 TACTICAL OPERATIONS DIVISION

8020-01 GANG DESIGNATION RECORDS

Series is created to establish and gather information about participants or persons who are affiliates of criminal gangs. Series is used to document gang members and to purge old information from the system. Records include gang designation report form, reference date of activity, reports of conduct, police reports, correspondence, background checks, last known address, gang affiliation letter, etc. Records may also include hearing and appeal records, letters that have been returned as undeliverable and other records gathered to support or refute the designation of a specific individual.

Record Copy? Yes

RETENTION: 4 years after last action ✓

8020-02 GANG DESIGNATION RECORDS - NOT APPROVED ?

Series is used to document decisions on individuals considered but who do not meet the criteria for gang designation. Series is created to hold records prior to destruction and to resolve legal issues that may have arisen during the gang designation process. Records may include a copy of original gang designation report, due process steps, correspondence, commander's report for non approval, and other similar and related material. Note: Some records contained in these files may be exempt from disclosure under ORS 192.501 through 192.502. Consult your agency's legal counsel for assistance before releasing information.

Record Copy? Yes

RETENTION: 4 years after last action

8020-03 GANG DESIGNATION REPORT - PURGE REPORT

Series is created to track persons who are scheduled to be purged from the gang affiliation list. Series is used to identify individuals who are to be purged and those that are to be re-designated by the initial gang affiliation process. Series includes name, date scheduled to be purged and other information deemed to be appropriate in identifying gang member.

Record Copy? Yes

RETENTION: 6 months or as needed, whichever is longer

8020-04 WARRANT RECORDS - SERT CASE RECORDS

Series is created to document the prep work to serve warrants to "high risk" locations. Series is used to reference locations in future executions of warrant service. Records includes floor plans, photographs, operations orders, etc.

Note: Some records contained in these files may be exempt from disclosure under ORS 192.501 through 192.502. Consult your agency's legal counsel for assistance before releasing information.

Record Copy? Yes

RETENTION: Retain as needed

8020-05 EXPLOSIVE DISPOSAL UNIT (EDU) MISSION REPORT

Series is created to track missions involving explosives and how they were removed or disarmed. Record may include date, time, who notified, who called, type of mission, mission specifics, how disarmed and made safe, and other related data.

Note: Some records contained in these files may be exempt from disclosure under ORS 192.501 through 192.502. Consult your agency's legal counsel for assistance before releasing information.

Record Copy? Yes

RETENTION: 30 years or as needed, whichever is longer

Local News

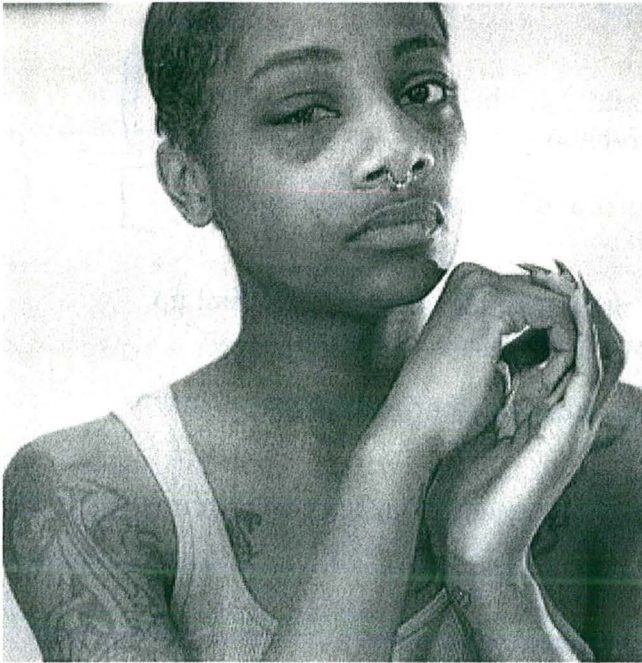
Originally published December 5, 2014 at 8:51 PM | Page modified December 5, 2014 at 10:25 PM

No felony charges for SPD cop's bone-breaking punch of handcuffed woman

The decision not to charge a Seattle police officer who punched a handcuffed woman reflects a deep divide between King County prosecutors and City Attorney Pete Holmes.

By Mike Carter

Seattle Times staff reporter



Federal prosecutors say they will review an incident in which a Seattle police officer punched and seriously injured a handcuffed, intoxicated woman, after King County prosecutors said Friday they won't charge the officer.

Emily Langlie, spokeswoman for acting U.S. Attorney Annette L. Hayes, said her office will look at the June 22 incident involving Officer Adley Shepherd for a possible federal criminal civil-rights violation.

The decision comes after King County Prosecutor Dan Satterberg announced that his office would not seek a state felony charge against Shepherd, 38, a nine-year department veteran, for punching Miyekko Durden-Bosley in the back of his police cruiser.

Durden-Bosley, 23, was intoxicated and was verbally abusive after her arrest outside the home of a Seattle man whose mother had called the police. Durden-

Bosley swore at Shepherd and kicked at him while being shoved into the back of a police cruiser, according to the investigation.

Shepherd reacted by punching her once in the face, fracturing the orbit of her right eye. Shepherd suffered no visible injuries, according to court documents.

Shepherd has been on paid administrative leave since the incident.

Satterberg's decision reflects a deep difference of opinion between his office and City Attorney Pete Holmes, whose criminal chief reviewed the case earlier and thought it "undoubtedly met the felony standard," according to a news release issued by Holmes on Friday.

Holmes sent the case to Satterberg because the city attorney has no jurisdiction to prosecute felony crimes.

It now appears Shepherd will not be charged criminally unless the U.S. Attorney's Office determines that his actions violate federal civil-rights criminal statutes. Such prosecutions are very rare and hard to

Reverse

prove.

A Seattle Times review of such cases showed there has been only one federal criminal civil-rights case filed against a law-enforcement officer in recent history in the Western District of Washington — a 2008 charge against a former King County deputy for kicking and beating a handcuffed woman.

A jury acquitted the deputy at trial.

Shepherd faces a review by the SPD's Office of Professional Accountability to determine whether his actions fell within department policy. He could be disciplined or fired, but would not face jail time or other criminal sanctions.

His attorney, Eric Makus, said his client is anxious to return to work. "He is pleased that he has been exonerated from any wrongdoing," Makus said.

The department said Shepherd will remain on administrative leave pending the internal investigation.

The incident was caught on in-car video, and its almost six-month investigation has been a hot potato for prosecutors and law-enforcement officials alike. The SPD turned its investigation over to the Washington State Patrol (WSP), which recruited the director of training at the state police academy, Robert Bragg Jr., to review the video and its investigation.

He concluded that Shepherd's actions were inappropriate, inconsistent with best practices and inflicted unnecessary injuries to the woman.

Shepherd refused to give a statement to WSP investigators. Makus said that's because the investigators would not let him watch the dash-camera video of the incident beforehand.

Criminal prosecutors in Satterberg's office reviewed the video, reports and the investigation by a WSP detective sergeant and came to another conclusion.

King County prosecutors said they found that Shepherd had "acted professionally and with restraint up to the point where he was kicked in the head by the suspect as she was being placed in the patrol car."

"Officer Shepherd reacted instantaneously to the kick by the suspect, who was wearing boots, with one punch to the suspect's head which caused a fracture of an orbital socket."

Prosecutors concluded that, in Shepherd's case, they could not overcome the legal burden that requires them to prove beyond a reasonable doubt that the force used by the officer was not necessary.

"While officer Shepherd may have had other options or alternatives, we have concluded that we would be unable to prove that officer Shepherd's use of force was criminal" prosecutors said.

The decision, which has been pending since October, comes as public outcry grows over incidents in Missouri and New York where police officers have not been prosecuted despite using deadly force against unarmed individuals.

In Seattle, protesters have gathered nightly downtown this week to express their outrage over what they consider a lack of police accountability.

The video — which has not been publicly released — does not clearly show whether the kick struck Shepherd, although he can be heard saying, "She kicked me," according to the documents.

The Washington State Patrol found that it was not clear whether Durden-Bosley's kick connected with the officer, even after the video was enhanced by the FBI and a private video company.

Shepherd and Durden-Bosley were both treated at Harborview Medical Center, where State Patrol investigators later served a search warrant for medical records.

**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



POST OFFICE BOX 40723
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MEMORANDUM

DATE: December 6, 2013

TO: Mayor Charlie Hales, mayorhales@portlandoregon.gov

FROM: Kristen Chambers and Shauna Curphey, Portland Chapter of the National Lawyers Guild

ENDORSED

BY: The AMA Coalition for Justice and Police Reform
League of Women Voters of Portland
Portland Copwatch

CC: Commissioner Dan Saltzman, dan@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Steve Novick, steve.novick@portlandoregon.gov
Constantin Severe, constantin.severe@portlandoregon.gov
Auditor LaVonne Griffin-Valade, lavonne.griffin-valade@portlandoregon.gov

RE: Proposed Amendments to the IPR Ordinance and the Portland Police Association
CBA: Compelled Officer Testimony and the 48-Hour Rule

I. Introduction

The Portland Chapter of the National Lawyers Guild presents this memorandum of law to the Portland City Council and Auditor in response to the concerns expressed at the Council meeting on October 23, 2013 and the assertions in Portland Police Association attorney Anil Karia's letter to the Portland Bureau of Human Resources and Police Bureau dated October 24, 2013 about the legality of granting IPR authority to compel officer testimony. The current Portland City ordinance governing police oversight allows IPR to compel testimony if the collective bargaining agreement with the police union does not prohibit it.¹ The collective

¹ PORTLAND CITY CODE, ch. 3.21.120(C)(2)(b) [hereinafter City Code]. The relevant provision states: "IPR

bargaining agreement between the Portland Police Bureau and the City currently in effect (CBA) implies that only the Bureau may interview officers during investigations of potential misconduct.² This memo will show that amending the ordinance to give IPR authority to compel officer testimony would not run afoul of state labor laws or officers' constitutional rights.

We also address a related issue—the legality of eliminating the “48-hour rule.” The 48-hour rule, located in the current CBA, allows an officer to receive two days advance notice before the officer is required to submit written reports or participate in interviews.³ This memo will show that eliminating the 48-hour rule in the CBA would not violate state labor laws or officers' constitutional rights.

Granting IPR authority to compel testimony and institute investigation sooner than 48 hours after an incident of alleged police misconduct would be a huge step toward truly independent police oversight. The current framework unnecessarily deprives IPR of the authority required to conduct adequate independent investigations.

II. Allowing IPR to Compel Officer Testimony is Not a Mandatory Bargaining Subject

The Oregon Employment Relations Board (ERB) has not squarely decided the particular

investigations shall be conducted in conformance with legal and collective bargaining provisions. When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, the Director shall notify the IAD commander that IPR has undertaken an investigation and the reason. The IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews. When members represented by a collective bargaining unit are being interviewed by IPR personnel, the IAD investigator may repeat the question and/or direct the member to answer the question. *When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.*” (Emphasis added).

² 2010-2013 LABOR AGREEMENT BETWEEN THE PORTLAND POLICE ASSOCIATION AND THE CITY OF PORTLAND, art. 61.2.2.4, available at <http://www.portlandoregon.gov/bhr/article/10857> [hereinafter CBA]. The relevant provision states: “The officer being interviewed shall be informed of the name, rank, and command of the officer in charge of the investigation, the interviewing *officer*, and all other persons present during the interview.” (Emphasis added).

³ CBA art. 61.2.1.3. The 48 hour rule states: “Whenever delay in conducting the interview will not jeopardize the successful accomplishment of the investigation or when criminal culpability is not at issue, advance notice shall be given the officer not less than forty-eight (48) hours before the initial interview commences or written reports are required from the officer. The advance notice shall include whether the officer is a witness or a suspect, the location, date and time of the incident, the complainant’s name, and the nature of the allegation against the officer.”

issue of whether granting authority to an oversight agency to compel officer testimony is a mandatory or permissive bargaining subject. However, the ERB has already identified the scope of bargaining for a number of subjects that fall within the larger category of investigations of employee misconduct. Subjects that the ERB has classified as permissive include “complaint procedures,”⁴ “qualifications for a position,”⁵ “assignment of duties,”⁶ and, more specifically, “assignment of duties to employees outside the bargaining unit.”⁷ Mandatory subjects include “discipline”⁸ and “fundamental fairness.”⁹ As the cases below illustrate, the ERB would likely conclude that granting IPR authority to compel officer testimony specifically falls within the former categories above, and is therefore a permissive bargaining subject.

In *OPEU v. State of Or. Exec. Dep’t*, state hospital and mental health service employees filed an Unfair Labor Practice claim against their employer for refusing to bargain over employee investigation procedures.¹⁰ The ERB weighed the employees’ interest in not being subject to stigma and anxiety against the State’s interest in controlling the investigation.¹¹ It found that the “restrictions and conditions imposed on the investigation process which could potentially jeopardize its validity and integrity are . . . matters in which the State’s interest in identifying . . . abuse will generally override effects on employees subject to investigation.”¹² The ERB held that two of the proposals at issue were permissive and one was mandatory. The subjects deemed permissive included providing notice to the employee of the specific allegations

⁴ The PECBA Digest has categorized the permissive proposals in *AOCE v. State of Or. Dep’t of Corr.*, 14 PECBR 832, 870–72 (1993), as falling under the subject of “complaint procedures.” THE PUBLIC EMPLOYEE COLLECTIVE BARGAINING ACT DIGEST, 1991–1995.

⁵ OR. REV. STAT. § 243.650(7)(g) (2009).

⁶ *Id.*

⁷ *See, e.g., Eugene Educ. Ass’n v. Eugene Sch. Dist. No. 41*, 1 PECBR 446, 451–52 (1975).

⁸ *See, e.g., Portland Fire Fighters Ass’n, Local 43 v. City of Portland*, 16 PECBR 245, 250–52 (1995).

⁹ *See, e.g., OPEU v. State of Or. Exec. Dep’t*, 14 PECBR 746, 767 (1993).

¹⁰ *OPEU*, 14 PECBR at 767.

¹¹ *Id.* at 768.

¹² *Id.*

against him, providing notice to the employee of the complaining party's identity, and allowing the employee the opportunity to provide information first.¹³ The ERB concluded that [d]ecisions about when to interview parties and in general how to conduct . . . investigations are not ones over which the State can be required to bargain" because "[a]n employee has no legitimate interest in interfering with the investigation process."¹⁴ The ERB distinguished the proposal for imposing time frames to initiate and complete investigations. It held this topic to be mandatory because the "State has no interest in unreasonably protracting or delaying the investigation process, while the accused employee has a significant interest in being cleared of or charged with wrongdoing in as swift a manner as possible."¹⁵

In *AOCE v. State of Or. Dep't of Corr.*, state correctional employees filed an Unfair Labor Practice complaint against their employer for refusing to bargain over particular employee investigation procedures.¹⁶ The ERB weighed the employees' interest in "protections [. . . to] ensure fairness" against the employer's interest in the "integrity and effectiveness of the investigation."¹⁷ It concluded that three of the five proposals were permissive topics. The ERB held that requiring the State to notify employees of a complaint within 48 hours was permissive based on its reasoning in *OPEU v. State of Oregon*.¹⁸ It also held that divulging information concerning the complaint to the accused officer at least 72 hours before questioning and allowing the officer to consult with a representative during the interview are both permissive topics for bargaining because they "substantially defeat[] the purpose of such an interview."¹⁹ The ERB explained that the "purpose of [the interview] is to obtain the employee's own candid, spontaneous, and unvarnished rendition of the events under investigation. The employee has no

¹³ *Id.* at 767–68.

¹⁴ *Id.* at 768.

¹⁵ *Id.* at 769.

¹⁶ *AOCE v. State of Or. Dep't of Corr.*, 14 PECBR 832, 870 (1993).

¹⁷ *Id.* at 871.

¹⁸ *Id.* at 870–71.

¹⁹ *Id.* at 871–72.

legitimate interest in providing anything else.”²⁰ However, the ERB held that requiring investigators to not use “threats or intimidations” during the interview, and allowing an employee to tape record the interview are mandatory topics for bargaining.²¹ The ERB reasoned that these topics were mandatory because they “would not interfere with” or “adversely affect[]” the employer’s ability to conduct investigations.²²

In *Eugene Police Employees Ass’n v. City of Eugene*, a police union contested the city’s unilateral action of allowing the auditor to participate in investigatory interviews.²³ The city and the union had previously agreed that neither would pursue “proposals concerning the police auditor’s investigatory role.”²⁴ But, the city withdrew its proposal during bargaining, and referred the issue to the voters.²⁵ Unfortunately, the ERB did not have the opportunity to reach the decision of whether the topic was mandatory or permissive because it held that the City did not change the “*status quo*” when it gave authority to the auditor to conduct investigatory interviews.²⁶ However, the city asserted that “all matters related to the police auditor’s role in interviews, except notice of the interview, were permissive topics of bargaining,” and the union did not challenge that assertion.²⁷

In addition, the concurring opinion, written by the ERB Chair, found that this issue [the

²⁰ *Id.* at 872.

²¹ *Id.* at 872.

²² *Id.*

²³ *Eugene Police Emp. Ass’n v. City of Eugene*, 23 PECBR 972, 974 (2010).

²⁴ *Id.* at 973.

²⁵ *Id.* at 972.

²⁶ *Id.* at 979. The duty to bargain in good faith under ORS 243.672(1)(e) includes an obligation to bargain prior to changing existing employment conditions that concern mandatory subjects of bargaining. *Id.* at 26–27. In a unilateral change case, the ERB first identifies the *status quo* based on an expired collective bargaining agreement, past practice, work rule, or policy. *Lincoln City Ed. Assn. v. Lincoln City Sch. Dist.*, 19 PECBR 656, 664–65 (2002). Then the ERB determines whether the employer changed it. *Id.* If so, ERB decides whether the change affects a mandatory subject for bargaining. *Id.* If it does, the ERB reviews the record to determine whether the employer completed its bargaining obligation before it decided to make the change. *Lebanon Educ. Ass’n/OEA v. Lebanon Cnty. Sch. Dist.*, 22 PECBR 323, 360 (2008). Because the ERB found that the city did not change the *status quo* in *Eugene Police Emp. Ass’n*, it never reached the scope of bargaining issue.

²⁷ *Eugene Police Employees Ass’n*, 23 PECBR at 996.

police auditor’s role in interviews] would be permissive.²⁸ The concurrence reasoned that “[d]eciding who will conduct investigatory interviews clearly concerns assignment and qualifications.”²⁹ By statute, assignment of duties and qualifications for a position are permissive for bargaining.³⁰ He concluded that the city is not required to bargain over how the oversight agency is included in investigations.³¹ The Chair footnoted an exception to the general rule that conducting investigations is a permissive bargaining subject. This exception “concerns aspects of an investigation that involve fundamental fairness to the employee and do not unduly interfere with the investigation,” which are mandatory.³² These include protections such as “completing an investigation as promptly as possible, . . . prohibit[ing] investigators from using ‘threats or intimidations,’ and . . . allow[ing] tape recording of interviews.”³³ While the union argued that “fundamental fairness” was involved because allowing the oversight agency to participate in interviews would cause employees to lose *Garrity* rights, the Chair found no law or proof indicating that this would in fact occur.³⁴

The case cited in Mr. Karia’s October 24 letter, *Portland Firefighters Association, Local 43 v. City of Portland*,³⁵ is not persuasive on the issue of compelling officer testimony. In that case, the City eliminated the ability to impose most types of unpaid suspensions on battalion chiefs.³⁶ The ERB explained that discipline criteria is a “matter in which employees have a substantial interest and in which employers have little or no countervailing interests.”³⁷ The

²⁸ *Id.* at 1004 (Gamson, P., concurring).

²⁹ *Id.* at 1003 (Gamson, P., concurring).

³⁰ ORS 243.650(7)(g) (2009).

³¹ *Id.* at 1004 (Gamson, P., concurring).

³² *Id.* at 1003 (Gamson, P., concurring).

³³ *Id.*

³⁴ *Id.*

³⁵ 16 PECBR 245 (1995).

³⁶ *Id.* at 250.

³⁷ *Id.* at 252 (citations omitted).

discipline criteria examined in *Portland Firefighters Association* is separate and distinct from the issue of investigatory procedures, like compelling testimony. Even though IPR is intimately involved in both investigation and discipline, each involve different goals and outcomes. As stated in *OPEU*, employers have strong interests in investigating employee misconduct, whereas employees have “no legitimate interest in interfering with the investigation process.”³⁸

Based on ERB precedent and the concurring opinion in *Eugene Police Employees Association*, the ERB would likely find that granting IPR the authority to compel testimony is a permissive subject that does not require bargaining. The authority to compel officer testimony falls under the permissive subjects of “complaint procedures,” “assignment of duties,” and “qualifications for a position.”³⁹ To further clarify this categorization, it is important to understand that Portland Police Bureau’s Internal Affairs already has authority to compel testimony.⁴⁰ Thus, granting the authority to IPR primarily involves the narrow subject of “assignment of duties to employees outside the bargaining unit.”⁴¹ In other words, the City would merely be sharing the same authority granted to Internal Affairs with IPR.

Unlike OPEU’s complaint about time limits for investigations⁴² or AOCE’s concern about the use of threats and intimidation,⁴³ compelling officer testimony does not implicate “fundamental fairness.” Likewise, it does not infringe on the mandatory subject of “discipline” because disciplinary decisions resulting from interviews and other evidence are made separately from the investigation process, and ultimately by the Chief of Police.⁴⁴

Even if the ERB could not agree on a bargaining subject into which compelling officer testimony fits, it would still be likely to find the subject permissive. Where an issue does not fit

³⁸ 14 PECBR at 768.

³⁹ *Eugene Police Employees Ass’n*, 23 PECBR at 1003 (Gamson, P., concurring).

⁴⁰ CITY CODE, ch. 3.21.120(C)(2)(a); CBA art. 61.2.2.

⁴¹ *Eugene Police Employees Ass’n*, 23 PECBR at 1004 (Gamson, P., concurring) (citing *Eugene Educ. Ass’n v. Eugene Sch. Dist. No. 4J*, 1 PECBR 446, 451–52 (1980)).

⁴² *OPEU*, 14 PECBR at 769.

⁴³ *AOCE*, 14 PECBR at 872.

⁴⁴ CITY CODE, ch. 3.20.140(B).

neatly into an already identified bargaining subject, the ERB applies a test balancing the employer's management prerogatives with the employees' interests.⁴⁵ Applying the balancing test, an employee has no legitimate interest in hiding misconduct whereas an employer has a strong interest in holding its staff accountable. It should come as no surprise to an employee that if he were suspected of breaking the rules of his employer, he would be expected to explain himself in order to retain his employment. ERB precedent dictates that "a public employer is generally not required to bargain over the manner in which it investigates alleged employee misconduct."⁴⁶ Conducting interviews and compelling testimony are management prerogatives and thus permissive bargaining subjects.

III. Eliminating the 48-Hour Rule is Not a Mandatory Bargaining Subject

The ERB has explicitly held that notices like the 48-hour rule are not mandatory bargaining subjects. The ERB has found that the following were permissive subjects: providing notice to the employee of the specific allegations against him; providing notice to the employee of the complaining party's identity; allowing the employee the opportunity to provide information first; requiring the State to notify employees of a complaint within 48 hours; divulging information concerning the complaint to the accused officer at least 72 hours before questioning; and allowing the officer to consult with a representative during the interview.⁴⁷ The ERB reached these decisions based on the employers' important interest in obtaining candid information soon after an incident and the employees' lack of legitimate interest in restrictions that may thwart meaningful investigations of misconduct.⁴⁸ The 48-hour rule in the CBA is no different than the conditions already examined by the ERB and determined to be permissive bargaining subjects.

⁴⁵ Akin Blitz & Liz Joffe, *Public Employees and Oregon's Scope of Bargaining*, LABOR EDUC. & RESEARCH CTR. U. OF OR. 18 LERC MONOGRAPH SERIES 1, 28 (Marcus Widenor, ed., 2007) available at <http://www.bullardlaw.com/assets/documents/lercmonographseries0507.pdf>.

⁴⁶ *Eugene Police Emp. Ass'n*, 23 PECBR at 1003 (Gamson, P., concurring).

⁴⁷ *OPEU*, 14 PECBR at 767-68; *AOCE*, 14 PECBR at 871-72.

⁴⁸ *Id.*

IV. Allowing IPR to Compel Officer Testimony Would Not Jeopardize Officers' Constitutional Rights

A police officer's constitutional right against self-incrimination is protected in certain circumstances, as explained by the Supreme Court in *Garrity v. New Jersey*.⁴⁹ Under *Garrity*, an incriminating statement made by an officer to IPR is inadmissible against the officer in a criminal trial if the officer invoked the right to remain silent and was compelled to make the statement under the threat of job termination.⁵⁰ The protections provided by *Garrity* are substantial—as a former Law Professor from Cornell Law School and current Chief of the Criminal Division of the United States Attorney's Office in the Northern District of New York put it: “courts place more stringent restrictions on prosecutors' use of compelled statements that internal affairs investigators take from police officers in noncustodial, noncoercive settings than on their use of confessions that police extract from in-custody suspects by use of illegal physical force or psychological coercion.”⁵¹ For this reason, it is important that *Garrity* warnings are administered with care and limitation. The Department of Justice recommends administering *Garrity* warnings only when necessary—not when seeking routine police reports, and not in every situation where an officer is interviewed concerning his or her conduct.⁵² Rather, *Garrity*'s protection applies only when an officer reasonably believes that a truthful statement will be self-incriminating in a criminal prosecution and he faces the threat of termination for refusing to answer.⁵³

The case cited in Mr. Karia's letter, *City and County of Denver v. Powell*,⁵⁴ does not

⁴⁹ 385 U.S. 493 (1967).

⁵⁰ *Id.* at 500.

⁵¹ Steven D. Clymer, COMPELLED STATEMENTS FROM POLICE OFFICERS AND *GARRITY* IMMUNITY, 76 NYU L. Rev. 1309, 1313 (2001).

⁵² Dep't of Justice Letter to the Mayor of Seattle re: United States' Investigation of the Seattle Police Department-*Garrity* Protections, Nov. 23, 2011, available at <http://samuelwalker.net/wp-content/uploads/2012/01/DOJSeattleGarrity.pdf> (citing case law to support this position).

⁵³ *Id.*; see also *Aguilera v. Baca*, 510 F.3d 1161, 1173 n.5 (9th Cir. 2007) (“[T]he Constitution is offended . . . only when the officer is required to waive his privilege against self incrimination while answering legitimate job-related questions.”)

⁵⁴ 969 P.2d 776, 780-81 (Co. App. 1998).

undermine IPR's proposal to compel officer testimony. That case addressed whether a civilian police oversight committee could compel officers' testimony despite the officers' decision to invoke the Fifth Amendment privilege against self-incrimination. The Colorado Court of Appeals found that testimony before the committee did not invoke *Garrity* protections because the committee was not involved in disciplinary proceedings.⁵⁵ Thus, the officers' statements before the committee would not be considered "coerced" and therefore could be construed as a voluntary waiver of their Fifth Amendment rights in the event the officers faced a criminal prosecution. As a result, the court held that the officers were entitled to assert their Fifth Amendment privilege and decline to answer questions submitted to them where their answers might tend to incriminate them.

Here, the changes to the IPR ordinance do not address whether IPR could compel officer testimony even when an officer invokes a Fifth Amendment privilege, and thus the *Powell* decision is inapposite. Moreover, unlike the committee in *Powell*, IPR is immersed in the Portland Police Bureau's disciplinary proceedings. IPR is a voting member of and recommends the citizen members of the Bureau's disciplinary body, the Police Review Board.⁵⁶ Also, IPR has to controvert findings and discipline proposed by the Bureau, triggering review by the Board.⁵⁷ Thus, in the unlikely event that an officer invokes the Fifth Amendment privilege during an IPR interview and is nonetheless compelled to provide a statement upon threat of termination, *Garrity* would limit use of those statements in a criminal proceeding. However, if the City is still concerned that IPR does not have sufficient authority to render a *Garrity* warning, such concerns can be alleviated. The ordinance could require the Police Commissioner or Chief or another representative with express disciplinary authority to administer the *Garrity* warning.

V. Eliminating the 48-Hour Rule Would Not Jeopardize Officers' Constitutional Rights

Garrity is inapplicable to the 48-hour rule. By its very terms, the 48-hour rule only

⁵⁵ *Id.*

⁵⁶ CITY CODE, ch. 3.20.140(C)(1)(a).

⁵⁷ *Id.* at 3.20.140 (B)(1); 3.21.070(E).

applies when criminal culpability, an essential component of the *Garrity* analysis, is not at issue.⁵⁸ Also, allowing IPR to obtain reports from officers without 48 hours' notice does not trigger the same constitutional protections that compelled testimony does. The Fifth Amendment protects a person "only from being compelled to testify against himself or otherwise provide the state with evidence of a testimonial or communicative nature."⁵⁹ It does not protect an officer from doing his job of submitting routine reports, such as those required after use-of-force incidents.⁶⁰

VI. Conclusion

The City has many important upcoming decisions with respect to police oversight. We hope this memo sufficiently answers the Council's questions, and assists the Council in action to grant IPR power to compel testimony. We also hope the City eliminates the 48-hour rule in the new CBA. The Portland Chapter of the National Lawyers Guild remains ready to address any further concerns of the Council or Auditor on these topics.

⁵⁸ CBA art. 61.2.1.3.

⁵⁹ *Deering v. Brown*, 839 F.2d 539, 540 (9th Cir. 1988).

⁶⁰ *Cook*, 526 F. Supp. 2d at 3; *Watson v. Cnty. of Riverside*, 976 F. Supp. 951, 955 (C.D. Cal. 1997); *Devine v. Goodstein*, 680 F.2d 243, 247 (D.C. Cir. 1982).

Report to the City of Portland on Portland Police Bureau Officer-Involved Shootings

First Report ◦ May 2012

*Ames' contract
Dec 2013*

OIR GROUP
Michael Gennaco
Robert Miller
Julie Ruhlin



Common Themes and Issues

Delays in Interviewing Involved Officers

In our review of the in-custody death of James Chasse, we noted the delay in interviewing the involved officers and expressed concerns that such delays affect the quality and integrity of the fact gathering process. As detailed below, those same delays are evidenced in each of the seven shootings we have reviewed. From a delay of at least one day to the longest gap of seven days, involved officers are not interviewed contemporaneously with the incident.

As we stated in our review of the Chasse in-custody death, the inability to obtain the officers' version of events contemporaneously with the incident hinders the fact gathering process and creates skepticism among some that the eventual statement provided by the officers may be potentially tainted by exposure to other sources of information about the incident either through inadvertence or collusion.

In addition, the trend in more recent fatal shootings is for officers, upon advice of counsel, to decline to provide voluntary statements to detectives. As a result, any advantage of affording officers a couple days delay so that a voluntary statement can be obtained no longer exists. And, as noted above, even in the cases in which officers agree to voluntary interviews, those voluntary interviews similarly do not

occur on the date of the incident. The “48-hour rule” dictated by the current Bureau labor contracts continues to impede the Bureau from obtaining even a compelled timely version of what occurred from the involved officers.

One idea the Bureau has put forward to ameliorate some of the deficit in timely information from officers is to require officers to make a public safety statement. A public safety statement is intended to provide on-scene supervisors a way in which to obtain vital information from involved officers so they can devise an effective public safety response. Following a critical incident such as an officer-involved shooting, there is almost always a need for the first supervisor arriving on scene to formulate a response plan. The supervisor needs to know whether any officers or other individuals are injured, whether any suspects remain at large, and whether any rounds went down range and may have struck and entered nearby businesses or residences. For that reason, many law enforcement agencies instruct supervisors to obtain public safety statements from the involved officers to gather this critical information. Because the interest in obtaining this information from involved officers is routine, these statements should be considered voluntary statements in the same way that a police report is considered to be a voluntary statement of the officer.⁸

While we agree that the routine collection of a public safety statement is a key protocol missing from the way in which the Bureau responds to officer-involved shootings, we do not believe the implementation of such a protocol would rectify the delay in obtaining the involved officers’ recollection of events because the amount of information obtained in a true public safety statement is too limited and not a full and detailed account of the incident. Should the Bureau implement a public safety statement requirement, it should be true to the above-stated purpose to primarily serve the interests of public safety in those first moments after an officer-involved shooting.

We also believe it is time for the Bureau and the City to end the 48-hour rule that exists in the current labor agreement so that full and contemporaneous accounts of these critical and sometimes controversial incidents can be obtained from the involved officers. In our view, the next time the labor contracts become due, July

⁸ The Bureau has prepared a draft deadly force policy that includes a public safety statement requirement as part of the Bureau’s standard investigative protocol. We have been informed that the Bureau intends to enter into initial discussions with the District Attorney’s Office and the bargaining units this year with regard to the feasibility of implementation of a public safety statement in deadly force investigations.

1, 2013, the elimination of the 48-hour rule should be one of the primary objectives of any future collective bargaining.

Recommendation 8: The Bureau and the City should begin as soon as possible a dialogue with the PPA and the PPCOA to remove the 48-hour rule restriction on interviewing involved officers in shootings and in-custody deaths.

Recommendation 9: The Bureau should implement protocols so that a narrow public safety statement is obtained as a matter of course in officer-involved shootings.

Consistently High Quality of Detective's Investigations

While we have noted gradual improvement of Bureau investigative and review practices, we have observed consistently high quality of performance on some aspects of PPB investigations. Chronologically, the first case of those reviewed here is the shooting of Mr. Perez in 2004; the last is the shooting of Mr. Collins in 2010. In those cases and the other cases we reviewed from that six year period, we saw consistently high performance in the effective canvassing and identification of witnesses to the events. A swift response, deployment of adequate resources, and a clear understanding of the importance of this task led to admirable results.

There were other aspects of the Bureau's investigative processes that displayed more uneven results. For example, in the Perez and Campbell shootings, we saw effective use of crime scene diagrams to develop a visual way to portray the incident which allows a reviewer to better understand the dynamics. However, the use of crime scene diagrams was relatively ineffective in the Gwerder case. One particular area of concern was noted in the Gwerder, Spoor, and Campbell cases, namely, the failure to consistently have witnesses use crime scene diagrams to document their positioning.

Recommendation 10: The Bureau should continue to brief and train its investigators on the importance of developing crime scene diagrams, and most importantly, to use them when interviewing witnesses, have the witnesses document their positions, and ensure inclusion of that documentation in the investigative file.



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 12 2012

The Honorable Sam Adams
Mayor
City of Portland
1221 SW 4th Ave # 340
Portland, OR 97204-1900

RE: Investigation of the Portland Police Bureau

Dear Mayor Adams:

This letter reports the findings of the United States Department of Justice Civil Rights Division's and United States Attorney's Office for the District of Oregon's (collectively "DOJ") joint investigation of the Portland (Oregon) Police Bureau ("PPB"). We opened our investigation to consider whether PPB officers engage in a pattern or practice of using excessive force, with a particular focus on the use of force against people with mental illness or in mental health crisis. Our investigation was brought pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). Section 14141 authorizes the United States to file a legal action when it has reasonable cause to believe that a law enforcement agency is engaging in activities that amount to a pattern or practice of violating the Constitution or laws of the United States.

While most uses of force we reviewed were constitutional, we find reasonable cause to believe that PPB engages in a pattern or practice of unnecessary or unreasonable force during interactions with people who have or are perceived to have mental illness. In this letter, we discuss the need for revised policies, training, supervision, and timely, thorough internal review of use of force in this context.

In making these findings, we recognize the challenges that police officers in Portland and elsewhere confront in addressing the needs of people with mental illness. Our findings take place against a backdrop of a mental health infrastructure that has a number of key deficiencies.

allegations of officer misconduct in the use of force to grand jury for consideration, but the grand jury has endorsed a charge on only one such occasion.

IA has informed us that they are now conducting concurrent administrative and criminal investigations. We commend this effort. PPB has an interest in preserving administrative accountability and public safety expeditiously through its IA process. This should not be delayed by a parallel, bifurcated criminal investigation. We note that PPB's policy still permits IA to decline an investigation if the claim is in judicial review, PPB Manual § 330.00, and this policy runs counter to the announced practice of concurrent investigations. PPB should make clear in its policy that administrative and criminal investigation shall run concurrently. PPB should consult with the DA, FBI, and/or United States Attorney's Office at the outset and throughout this bifurcated process and prior to compelling statements.²⁷ PPB should also clearly set forth in policy that though IA may use criminal investigation material in appropriate circumstances, all administrative interviews compelling statements, if any, of the subject officer and all information flowing from those interviews must be bifurcated from the criminal investigation in order to avoid contamination of the evidentiary record in the criminal case.

PPB informs us that, by contract, officers involved in shootings or in-custody deaths are permitted to wait 48 hours before they are subject to questioning. This delay in questioning the subject officer is a function of PPB's contract with the officers' union. Portland's City Attorney has also informed us that the DA, or his or her designee, is in command of the scene at an officer-involved shooting or in-custody death, pursuant to State law. The DA is a county employee. Provided the DA is not bound by the City's contract and its 48-hour waiting provision, the DA may consider questioning the officer, subject to his or her ability to exercise rights to counsel and remain silent, as soon as the DA sees fit. This should expedite the accurate resolution of the criminal investigation. If a civilian is involved at the scene of a potential crime, it is difficult to conceive of PPB officers permitting that civilian 48 hours before asking him or her questions about the incident. PPB should not hinder investigation of a potentially criminal action with this officer-specific delay.

Additionally, this 48-hour waiting period has enabled officers to refuse to timely provide complete use of force reports, i.e., FDCRs and public safety statements. In a recent PPB officer-involved shooting, not only did the shooting officer decline to give a statement at the scene, but so did two other officers who used less lethal force. Also, like the shooting officer, the other officers did not provide a narrative on the incident reporting forms, as required, but instead referred to interviews they would later give to detectives. As this incident demonstrates, PPB's waiting period for officers' statements concerning uses of force defeats the purposes of contemporary, accurate data collection through FDCRs. In many jurisdictions, standard use of force reports are not considered *Garrity* and officers are expected to fill them out immediately after an incident.

²⁷ These policy changes should make clear that only compelled statements made in the face of the reasonable prospect of criminal prosecution are entitled to *Garrity* protection.

2. Community Policing

Throughout our investigation, we had the opportunity to speak with members of PPB and the community who raised issues that affect the community's confidence in PPB and, in turn, public safety. We heard concerns from community members in a number of areas, including PPB's response to organized protests and perceived tensions between PPB and communities of color. Following numerous exchanges with a multitude of community members through various forums, including discussions with retired PPB officers, it became apparent that a trust divide exists between PPB and certain segments of the Portland community that should be bridged. We do not make any finding of a pattern or practice violation in this area. However, it is important to discuss the most prevalent concern identified in the course of our investigation – the often tense relationship between PPB and the African American community.

In the beginning of our investigation, Mayor Adams made clear that one of his reasons to call for our investigation of PPB was PPB's relationships with communities of color. At the conclusion of our investigation, it was clear that PPB could benefit from building additional bridges with minority communities, including but not limited to the African American community. While the scope of this investigation did not include an analysis of whether PPB engages in a pattern or practice of bias-based policing, we found that some community members perceive this practice. We are aware that Chief Reese regularly engages community representatives in meetings to discuss their concerns. We recommend that PPB continue to address this issue directly with the community and seek to expand opportunities for community engagement. One community activist succinctly stated that "the problem in not addressing the racial profiling is that it's creating an atmosphere of youths distrusting the cops." Both African American leaders of the community and average citizens told us that they believed they had been victims of racial profiling during traffic stops. One citizen stated in his community interview that he got his windows tinted, so that officers would no longer know that he was black, in an effort not to be pulled over. And he exclaimed to us: "It works!" Another community member told us his belief that "they protect the white folk and police the black folk."

Unfortunately, these comments provided during our investigation are similar to comments that were provided to the City during a series of five community listening sessions in 2006 with community-based organizations and PPB. PPB should consider reviewing the implementation of its 2009 PPB Plan to Address Racial Profiling. One of the recommendations that came out of the listening sessions included more stringent collection of stop data, but PPB had concerns regarding public release of officer names. Data provided to us by a local watch group indicated that PPB disproportionately stops African Americans. The data indicate that 12-24% of PPB's traffic and pedestrian stops are of African Americans. However, only 6.4% of the City's overall percentage is African American. Continuing to collect and track stop data would give PPB a better sense of whether a perception of biased policing might be a problem that PPB needs to address. Engaging with the public concerning such data would help assure the public that PPB is committed to ongoing analysis and remedial efforts to address allegations of biased policing.

Portland Police Bureau

PLAN TO ADDRESS RACIAL PROFILING

January 2009
(Updated August 2009) ←



Portland Police Bureau
1111 SW 2nd Ave.
Portland OR 97204
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Rosanne M. Sizer Chief
Dan Saltzman Commissioner

Top Priorities for 2009

The Bureau's plan is comprehensive and ambitious, and should be viewed as a framework for strategic action. For 2009, the Chief has chosen to emphasize the following strategic priorities:

- Work with the Human Rights Commission and Office of Human Relations, among others, to create opportunities for officers to engage with communities of color (see Section D, strategy 3.3).
- Develop a plan to reduce the number of unsuccessful searches by improving officers' ability to accurately identify individuals likely to carry weapons and/or contraband (i.e., improving their "hit" rate on searches) – thereby reducing disparate treatment among Caucasians, African Americans, and Latinos (see Section D, strategy 2.7).
- Inventory the Bureau's training and supervision on issues of professionalism and respect, with the goal of improving customer service (see Section D, strategy 2.5).
- Develop and improve partnerships with other agencies engaged in reducing racial disparities in our work (see Section D, strategy 2.1).

While the Bureau plans to move ahead on many of the other priorities listed in the plan, it will use the priorities listed above as its primary benchmarks for measuring its progress in 2009. (These priorities have the benefit of being easy to measure – an important consideration, since the Bureau does not possess evaluation staff.) At the end of the year, the Bureau will, with community input, review its progress and set new targets for 2010.]

check legislative intent

Adams: dashboard metrics

annual review

2.6 more conversation

than

stop in part

Implementing a Body-Worn Camera Program

Recommendations and Lessons Learned



COPS

Community Oriented Policing Services
U.S. Department of Justice



POLICE EXECUTIVE
RESEARCH FORUM

Chapter 2. Considerations for Implementation

New technologies in policing raise numerous policy issues that must be considered. This is especially true with body-worn cameras, which can have significant implications in terms of privacy, community relationships, and internal departmental affairs. As agencies develop body-worn camera programs, it is crucial that they thoughtfully examine how their policies and practices intersect with these larger questions. Policy issues to look at include the effect these cameras have on privacy and community relationships, the concerns raised by frontline officers, the expectations that cameras create in terms of court proceedings and officer credibility, and the financial considerations that cameras present.

Privacy considerations

The proliferation of camera phones, advances in surveillance technology, and the emergence of social media have changed the way people view privacy, contributing to the sense that, as Police Commissioner Charles Ramsey of Philadelphia said, it sometimes feels as though “everyone is filming everybody.” As technology advances and expectations of privacy evolve, it is critical that law enforcement agencies carefully consider how the technology they use affects the public’s privacy rights, especially when courts have not yet provided guidance on these issues.

Body-worn cameras raise many privacy issues that have not been considered before. Unlike many traditional surveillance methods, body-worn cameras can simultaneously record both audio and video and capture close-up images that allow for the potential use of facial recognition technology. In addition, while stationary surveillance cameras generally cover only public spaces, body-worn cameras give officers the ability to record inside private homes and to film sensitive situations that might emerge during calls for service.

There is also concern about how the footage from body-worn cameras might be stored and used. For example, will a person be able to obtain video that was recorded inside a neighbor’s home? Will agencies keep videos indefinitely? Is it possible that the body-worn camera footage might be improperly posted online?

When implementing body-worn cameras, law enforcement agencies must balance these privacy considerations with the need for transparency of police operations, accurate documentation of events, and evidence collection. This means making careful decisions about when officers will be required to activate cameras, how long recorded data should be retained, who has access to the footage, who owns the recorded data, and how to handle internal and external requests for disclosure.

“In London we have CCTVs, which are quite extensive and becoming even more so, but the distinction is that those cameras don’t listen to your conversations. They observe behavior and see what people do and cover public space, so you can see if there is a crime being committed. But CCTVs don’t generally seek out individuals. So I think there is an important distinction there.”

– Sir Bernard Hogan-Howe, Commissioner,
London Metropolitan Police Service

**ENHANCING POLICE ACCOUNTABILITY THROUGH
AN EFFECTIVE ON-BODY CAMERA PROGRAM FOR
MPD OFFICERS**



**REPORT AND RECOMMENDATIONS OF THE
POLICE COMPLAINTS BOARD**

TO

**MAYOR VINCENT C. GRAY,
THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND
CHIEF OF POLICE CATHY L. LANIER**

May 8, 2014

POLICE COMPLAINTS BOARD

**Kurt Vorndran, Chair
Assistant Chief Patrick A. Burke
Iris Maria Chavez
Karl M. Fraser
Margaret A. Moore**

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I. INTRODUCTION AND OVERVIEW

Over the past few years, police departments across the country have begun equipping their officers with body-worn cameras.¹ The Metropolitan Police Department (MPD) has recently announced its plans to implement a body-worn camera program, citing it as one of the Department's "top five priorities."²

The footage that these cameras capture can be used to resolve citizen complaints and train officers on proper procedures, and even as evidence in criminal and civil litigation. In addition to these benefits, a recent study shows that the mere presence of body-worn cameras may even serve to prevent negative interactions by changing officer and citizen behavior.³ As a result, the use of these devices can lead to enhanced police accountability as well as improved police-community relations.

While body-worn cameras have many possible benefits, their use also implicates some concerns for members of the public, government agencies, civil liberties advocates, and even the officers who wear the devices. In order to maximize the many advantages that the cameras can provide, it will be crucial for MPD to develop and implement clear policies governing video creation, access, usage, and retention. Police union representatives, policy experts, and civil liberties experts nationwide have expressed concern that deploying body-worn cameras with no official policy in place could undermine public confidence in the program, as well as jeopardize the privacy of officers and the public.⁴

Having a suitable policy in place is so critical to the deployment of a body-worn camera program that the Police Executive Research Forum (PERF), with support from the Justice Department's Office of Community Oriented Policing Services (COPS), is currently working on guidelines to help formulate model policies.⁵ At a recent PERF Town Hall Meeting in Philadelphia, law enforcement executives from across the nation agreed that policies and procedures involve multi-faceted and complex issues.⁶ According to PERF President Charles Ramsey, who also serves as the commissioner of Philadelphia's Police Department and was previously MPD's chief of police, "If you don't have a policy in place,

¹ See, e.g., Joel Rubin, *LAPD Begins Testing On-Body Cameras on Officers*, LOS ANGELES TIMES, Jan. 15, 2014, <http://articles.latimes.com/2014/jan/15/local/la-me-ln-lapd-cameras-20140115>; Jessica Anderson, *More Police Now Sporting Cameras on Their Bodies*, THE BALTIMORE SUN, Jan. 4, 2014, http://articles.baltimoresun.com/2014-01-04/news/bs-md-police-body-cameras-20140104_1_police-cameras-small-video-cameras-tyrone-west; Nancy Dillon, *Police Body-Worn Cameras Stop-and-Frisk Judge Suggested Have Helped Rialto Police Department*, DAILY NEWS Aug. 13, 2013, 7:52 PM, <http://www.nydailynews.com/news/national/cameras-proposed-stop-frisk-judge-ca-police-article-1.1426025>.

² Letter from Cathy L. Lanier, Chief of Police, Metropolitan Police Department, to Tommy Wells, Chairperson, District Council Committee on the Judiciary and Public Safety, (Feb. 10, 2014) (available on-line at http://dccouncil.us/files/performance_oversight/Resubmission_FINAL_MPD_Response_With_Attachments_Perf_Hrg_02_20_14.pdf).

³ BARAK ARIEL AND TONY FARRAR, POLICE FOUNDATION, SELF-AWARENESS TO BEING WATCHED AND SOCIALLY DESIRABLE BEHAVIOR: A FIELD EXPERIMENT ON THE EFFECT OF BODY-WORN CAMERAS ON POLICE USE-OF-FORCE, [hereinafter RIALTO STUDY] available at <http://www.policefoundation.org/content/body-worn-camera>;

⁴ See Tami Abdollah, *Officers' Body Cameras Raise Privacy Concerns*, ASSOCIATED PRESS, Mar. 15, 2014, 10:56 AM, available at <http://bigstory.ap.org/article/officers-body-cameras-raise-privacy-concerns>.

⁵ See PowerPoint Presentation, Police Executive Research Forum, *Guidelines to Help Formulate Model Policy for An Evolving Technology: Body-Worn Cameras* (2013), available at <http://www.policeforum.org/free-online-documents>.

⁶ *Police Leaders Explore Growing Use of Body Cameras at PERF Town Hall Meeting in Philadelphia*, SUBJECT TO DEBATE, (Police Executive Research Forum, Washington, D.C.), Sept./Oct. 2013., available at http://www.policeforum.org/assets/docs/Subject_to_Debate/Debate2013/debate_2013_sepoct.pdf.

eventually you're going to have a problem," noting that such policies should also exist to cover officers who might use their own cameras.⁷

To ensure the most effective policy, the needs and concerns of the many stakeholders throughout the District should be assessed and incorporated to the maximum extent possible. This kind of participation will also build public support and buy-in for the camera program, which should help ensure successful implementation.

Therefore, the Police Complaints Board (PCB) recommends that MPD establish an advisory panel of District of Columbia stakeholders to assist in the development of a policy to govern a body-worn camera pilot program in the Metropolitan Police Department (MPD). This panel should, at a minimum, include representatives from: MPD; the Office of Police Complaints (OPC); the Fraternal Order of Police (FOP); the Office of the United States Attorney for the District of Columbia (USAO); the District's Office of the Attorney General (OAG); the criminal defense bar; the American Civil Liberties Union (ACLU); and the Fair and Inclusive Policing Task Force. The panel should also include members of MPD's Citizen Advisory Councils as well as representatives of groups from around the District who could provide insight into how a camera program would affect various segments of the public, including, among others, immigrants, non-English speakers, crime victims, and the LGBTQ population. PCB further recommends that the District provide MPD with the necessary funding to conduct a pilot program. Once a pilot program has been conducted, the advisory panel should review the program's efficacy, identify any concerns about processes or policies, and suggest changes and improvements. If the program is determined to be beneficial, the District government should then provide funding for wider implementation across MPD.⁸

In the event that MPD decides to launch a pilot program prior to convening the recommended panel, it should be allowed to do so, but should permit OPC to provide real-time input and feedback to MPD as the expedited pilot program takes shape and is implemented. Adopting this approach would allow MPD to avail itself of OPC's ties with community groups and District stakeholders, thereby incorporating useful external feedback until the panel could be established. As for the proposed panel, it should be convened as soon as practicable to help develop a final policy based on an assessment of the ongoing pilot program.

II. POTENTIAL BENEFITS

There are several benefits to the District that could be derived from MPD instituting a body-worn camera program. The devices have the potential to enhance public safety and improve relations between police and members of the public by reducing misconduct, facilitating the resolution of incidents that arise, and improving officer training. Other potential advantages for the District government include enhancing public confidence in the criminal justice system and reducing the city's exposure to civil liability.

⁷ *Id.* at 2.

⁸ The Office of Police Complaints is overseen by the Police Complaints Board (PCB). PCB issues this report and makes these recommendations pursuant to D.C. Code § 5-1104(d) (2013), which authorizes the Board to recommend to the Mayor, the Council of the District of Columbia, and the Chiefs of Police of MPD and the D.C. Housing Authority's Office of Public Safety, reforms that have the potential to reduce the incidence of police misconduct. PCB is grateful to the following persons who assisted in preparing the report and accompanying recommendations: OPC Executive Director Philip K. Eure; OPC Deputy Director Christian J. Klossner, who supervised the project; Special Assistant Nicole Porter; Daniel R. Reed, a former OPC legal assistant and 2013 graduate of the University of Iowa College of Law; and Marielle Moore, an OPC law clerk and third-year law student at the University of Miami School of Law.

**SELF-AWARENESS TO BEING WATCHED AND SOCIALLY-DESIRABLE BEHAVIOR: A
FIELD EXPERIMENT ON THE EFFECT OF BODY-WORN CAMERAS ON POLICE USE-OF-
FORCE**

"Rialto Study"

DR. BARAK ARIEL, CAMBRIDGE

CHIEF TONY FURBER

2013

which the rule-breaker does not internalize the possibility of getting caught? At the very least, this experiment provides an example of a *way* to measure these dimensions. More broadly, however, the study was able to expose what happens when the level of certainty of apprehension for professional misconduct was set at 100%. These are social circumstances that are characterized with an inescapable panopticonic gaze²². Future explorations of the nexus between deterrence and self-awareness to being observed may want to scrutinize other contexts, other recording technologies and other levels of certainty of apprehension.

100%

In practical terms, the findings can easily be extended to other law-enforcement agencies, but to other professional arenas and social contexts as well. We envisage that any rule-enforcing profession can benefit from intensified certainty of apprehension that was “created” by devices such as body-worn cameras. For instance, medical physicians and other care-providers may benefit from having their interactions videotaped as it can potentially reduce cases of alleged unprofessional conduct. We acknowledge that this may pose ethical considerations, though we believe that, on average, the benefits outweigh the costs. One should also bear in mind that those that come in contact with these and other rule-enforcers already use such devices, so the major difference would be to institutional this practice and possibly introduce control measures.

Lastly, we cannot rule out the possibility that the cameras have (also) modified the behavior of those who interacted with the police. Members of the public with whom the officers communicated were also aware of being videotaped and therefore were likely to be cognizant that they ought to act cooperatively. However, we did not collect any evidence from these individuals to be able to ascertain this question. In spite of that, the psychological mechanisms ought to be substantially similar, though this is an avenue best explored experimentally in the future.

10 barriers to Obama's police body cam plan

Police departments across the country are hopping on the body cam train. Why the transition is going to be harder than they might think.

By Bill Schrier

December 09, 2014.

President Obama is redirecting at least \$75 million in federal funding to buy body-worn video cameras for up to 50,000 police officers. This initiative is driven partially by recent shootings of unarmed citizens in Ferguson, Missouri, and New York City. Crosscut has extensively reported on this issue.

In a time of polarization about the role of the police in our communities, the use of body-worn video cameras seems to have universal support. The Ferguson Police Department itself purchased and deployed such cameras for all of its officers just three weeks after Police Officer Darren Wilson killed Michael Brown.

The American Civil Liberties Union (ACLU), which dislikes video surveillance in general, likes body-worn cameras because they hold police officers accountable for their actions.

Police Unions like them because they hold citizens accountable for *their* actions – in two small studies sponsored by the United States Department of Justice, civilian complaints against police officers declined by 60 percent to 88 percent after implementation of body-cams. Many officers like that the cameras show what they spend *most* of their time doing, but which is rarely mentioned in the media – saving lives, performing CPR, protecting the vulnerable during serious crimes such as assaults and domestic violence.

And they appear to work: The Department of Justice study found that, among police departments that use body cams, use of force by officers declined by 60 percent, and violence from citizens against police also declined.

Since the cameras are relatively inexpensive – a few hundred to a thousand dollars each – police departments around the nation should be able to rapidly and deploy this useful technology, right?

Wrong.

What Obama hasn't mentioned publicly are the many technological, logistical and legal challenges that will face departments deploying body-worn video cameras. Here are a few.

1. Deploying cameras involves almost every unit within a police department. It's not just patrol staff, but police management, internal affairs, the legal staff, technology staff, evidence custodians, civilian staff involved with public disclosure and a number of outside agencies such as courts, prosecutors and public defenders will all be involved in implementing and overseeing the system.

2. Body-cams might make patrol officers less efficient. On one hand, police reports may be easier to write and charges easier to file with the video to back up statements by officers, victims and witnesses. On the other hand, officers and supervisors will now need to spend time reviewing video, a new task in their workdays. Seattle's patrol officer staffing is already stretched thin.

3. Body-cam video creates a huge volume of digital material. The Seattle Police Department

employs more than 500 patrol officers. A full-time body camera policy, if each officer works 40 hours a week, will create 20,000 hours of video a week. Of course, most video systems are set up to record only at certain times – when an officer turns on his or her camera, or, in the case of dash cam video, when the overhead lights are turned on during an incident or traffic stop. Even in these cases, at the very least, hundreds of hours of video will be produced each week.

4. Body cam video might not tell us as much as we'd like. Police work occurs during abysmal conditions: rain, snow, traffic noise, night-time. Audio and video quality often will be poor.

5. Body-cam video programs present major technological challenges for a department. City and county governments must fund their police departments to maintain adequate disk storage for all the video created by body cams; create a secure system to move the video from an officer's body cam to secure servers; acquire servers fast enough to immediately serve video on demand; back up the video in case of disk storage failure and protect the system from intentional or inadvertent alteration and hacking. Last but not least, someone will need to add metadata to each video clip, such as date, time and the names of officers, victims and witnesses, so the video is easily searchable.

6. Video presents a major public disclosure issue. The Washington Public Records Act states that these videos are public, except when a case is under investigation. The State Supreme Court's recent decision in the case "KOMO-TV versus the Seattle Police Department" reinforced that.

But body cams capture, in real-time, the trauma of often-innocent crime victims, including victims of domestic violence and rape, as well as people having medical emergencies and who are being detained or arrested – often when charges are later dropped. They also capture statements from witnesses, victims, confidential informants and sometimes attorney-client privileged conversations.

In the KOMO decision, a minority of the Supreme Court felt that such video should not be released under Washington's Privacy Laws, and public disclosure is the major reason most Washington police agencies do not widely employ body-worn video. Baltimore has created a specific police task force to address privacy issues and others associated with body-cams. Seattle has a digital privacy initiative to address not just police and body-cam issues, but privacy issues in general.

7. The redaction problem. In the DOJ Study, a sergeant with the Albuquerque Police Department commented that "officers a lot of times are seeing people on the worst day of their lives, and we're capturing that on video that's now a public record." Every video will need to be reviewed and redacted. Because software to reliably blur individual faces does not yet exist, that redaction must be done manually – a time consuming and expensive process.

The Seattle Police Department is conducting a hackathon on December 19, 2014, hoping to enlist the help of tech-savvy citizens to address the problem of redaction.

8. Police departments will need to develop a new set of policies to address the issues raised by body cams, many of which are quite thorny. Should officers be required to ask permission before recording an interaction? What about recording inside a private residence? Should officers be allowed to turn the video on and off? Under what circumstances? Such questions require serious deliberation.

In Washington, Attorney General Bob Ferguson just released an opinion stating officers do *not* need to ask permission before recording, though elected officials may decide they want officers to ask before making recordings inside a private home.

9. Departments will need to renegotiate union contracts. Deployment of body-worn video often requires re-negotiation of the police union contract, and negotiation of the policies with community organizations such as the ACLU.

10. Extra training. Officers must be trained not only in the operation of body-cams, but also in all new policies for managing video and using it as evidence. All this training means officers will, again, spend less time on the street.

Body-worn video cameras for public safety are an admirable technology. Body-cams for police officers are needed in America today and there is almost universal agreement they should be deployed.

But, as with many technologies, the cultural, political, policy and technical impediments are

significant. Communities should understand the ramifications of the technology, and elected officials should be ready for the costs, in both dollars and time, of effectively deploying body cameras.

Bill Schrier retired in 2012 as the Chief Technology Officer (CTO) for the City of Seattle. During his nine-year tenure, he directed information technology operations and policy, reporting directly to Mayors Greg Nickels and Mike McGinn. Bill is presently a senior policy advisor to the Chief Information Officer of the State of Washington. He lives in West Seattle with his wife Kathy and granddaughter Elizabeth.

View this story online at: <http://crosscut.com/2014/12/09/technology/123137/10-barriers-obamas-police-body-cam-plan/>

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Printed on December 10, 2014

Submitted by
J8 Ann Hardesty
12/10/2014

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Police On Body Camera System Database and Support

Bid Date & Time: 12/15/14 4:00 PM

Owner Solic Number: 117279 **Status:** bidding **Report:** 5993179

Country :United States **State:** OR **County:** Multnomah

Location: Portland

Scope: Provide an on-body camera system and corresponding video database that is simple to use, reliable, and easily-maintained.

Notes: Additional POC: Aubrey Lindstrom, Project Manager, Email: aubrey.lindstrom@portlandoregon.gov.

Plans: From Owner, see attached file.

Update Notes: Attached addendum 1.

Owner Type: Public

Buyer: Portland Bureau of Purchases

Address: 1120 SW 5th Ave, Room 750 Portland Building

City: Portland **State:** OR **Zip/Postal Code:** 97204-1912

TEL: 503-823-6855 **FAX:** 503-823-6865

Website: <http://www.portlandonline.com>

Contact: Cate Antisdal

Portland, Oregon
**FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
 For Council Action Items**

(Deliver original to City Budget Office. Retain copy.)

1. Name of Initiator Aubrey Lindstrom		2. Telephone No. 503-823-0364	3. Bureau/Office/Dept. Police/Fiscal
4a. To be filed (hearing date): 12/10/14	4b. Calendar (Check One) Regular Consent 4/5ths <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		5. Date Submitted to Commissioner's office and CBO Budget Analyst: 11/26/14
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

Authorize a competitive solicitation for an on-body camera system for the Police Bureau (Ordinance)

2) Purpose of the Proposed Legislation:

Council appropriated one-time funding of \$834,619 in the FY 2013-14 Fall Budget Monitoring Process (BMP) for the bureau to purchase in-car camera technology. The Police Bureau has conducted pilot studies of both in-car MAV and on-body camera systems to determine which type would be more effective and appropriate to the bureau's needs in a larger deployment. The Police Bureau would like to pursue this option to issue on-body cameras to officers and sergeants within the Operations Branch. The bureau wishes to issue a solicitation for an on-body camera system. The estimated one-time cost is approximately \$500,000 to \$1 million. City Code Section 5.33.040 requires that Council approve the award of Goods and Services Contracts in excess of \$500,000. The purpose of this legislation is to authorize the Request for Proposal (RFP) process for the purchase of an on-body camera system.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

NA

5) Expense: What are the costs to the City as a result of this legislation? What is the source of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)*

The one-time cost for FY 2014-15 is estimated to be approximately \$500,000 to \$1 million, which will be funded partially from \$834,619 carried over in the FY 2014-15 Fall BMP. Annual ongoing operating and maintenance expenses are estimated to range from \$400,000 to \$750,000. The ongoing funding for operations and maintenance will be identified in the FY 2015-16 budget development process using information generated in the solicitation process.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

Yes. The Police Bureau anticipates 3.00 FTE will be needed to support the program.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- YES:** Please proceed to Question #9.
- NO:** Please, explain why below; and proceed to Question #10.

There was public input opportunity during the FY 2013-14 Fall BMP, FY 2013-14 Spring BMP, and FY 2014-15 Fall BMP Council meetings. This Council item is the public involvement process for the on-body system RFP.

9) If “YES,” please answer the following questions:

- a) What impacts are anticipated in the community from this proposed Council item?**

- b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**

- c) How did public involvement shape the outcome of this Council item?**

- d) Who designed and implemented the public involvement related to this Council item?**

- e) Primary contact for more information on this public involvement process (name, title, phone, email):**

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

Yes, the Portland Police Bureau intends to do public outreach during the implementation process to assist in development of our policies and procedures related to body-worn technology.



MICHAEL REESE, Chief of Police

**REFERRED TO COMMISSIONER OF
FINANCE AND ADMINISTRATION**

ORDINANCE No.

Authorize a competitive solicitation for an on-body camera system for the Police Bureau (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Law enforcement agencies are adopting in-car mobile audio video (MAV) and on-body camera systems to improve evidence collection, to strengthen officer performance and accountability, to enhance agency transparency, to document encounters between police and the public, and to investigate and resolve complaints and officer involved incidents.
2. Council appropriated one-time funding of \$834,619 in the FY 2013-14 Fall Budget Monitoring Process (BMP) for the bureau to purchase in-car camera technology. The Police Bureau, in the FY 2014-15 Fall BMP, requested to have the funding re-appropriated in FY 2014-15.
3. The Police Bureau has conducted pilot studies of both in-car MAV and on-body camera systems to determine which type would be more effective and appropriate to the bureau's needs in a larger deployment.
4. The Police Bureau would like to pursue the option to issue on-body cameras to officers and sergeants within the Operations Branch. If this option is selected, the projected requirement for this level of deployment scope is 600 on-body cameras, plus related equipment.
5. The \$834,619 appropriation was carried over in the FY 2014-15 Fall BMP with the intent to purchase an on-body camera system rather than in-car MAV technology.
6. The bureau wishes to issue a solicitation for an on-body camera system. The estimated one-time costs range from \$500,000 to \$1.0 million.
7. City Code Section 5.33.040 requires that Council approve the award of Goods and Services Contracts in excess of \$500,000.

NOW, THEREFORE, the Council directs:

- a. The Chief Procurement Officer is authorized to facilitate the use of the competitive solicitation process in accordance with Portland City Code 5.33 in order to obtain the most responsible and responsive offers providing contracts for the purchase of an on-body camera system.
- b. Upon Council acceptance of the Chief Procurement Officer's Report, Procurement Services is authorized to negotiate and execute this contract, provided the contract has been approved as to form by the City Attorney's Office.




Passed by the Council:
Commissioner Mayor Charlie Hales
Prepared by: Aubrey Lindstrom
Date Prepared: November 7, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Deputy

Agenda No.
ORDINANCE NO.
Title

Authorize a competitive solicitation for an on-body camera system for Police Officers (Ordinance)

<p>INTRODUCED BY Commissioner/Auditor: Mayor Hales</p>	<p>CLERK USE: DATE FILED <u>DEC 05 2014</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Police Bureau Head: Chief Michael Reese </p> <p>Prepared by: Aubrey Lindstrom Date Prepared: November 7, 2014</p>	<p>ACTION TAKEN:</p> <p>DEC 10 2014 CONTINUED TO DEC 10 2014 2 P.M.</p> <p>DEC 10 2014 PASSED TO SECOND READING JAN 7 9:30 A.M. 2015</p>
<p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter </p> <p>Council Meeting Date <u>12/10/14</u></p>	<p>JAN 07 2015 REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</p>

AGENDA

TIME CERTAIN
Start time: _____

Total amount of time needed: _____
(for presentation, testimony and discussion)

CONSENT

REGULAR 30
Total amount of time needed: 5 min
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	
2. Fish	2. Fish	
3. Saltzman	3. Saltzman	
4. Novick	4. Novick	
Hales	Hales	