

IMPACT STATEMENT

Legislation title: * Direct Continuation of Existing Post Deadly Force Procedures for Police Bureau and Preparation of New Procedures Requiring Compelled Statements Within No More Than 48 Hours Absent Compelling Circumstances. (Ordinance)

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Purpose of proposed legislation and background information:

The City of Portland's Settlement Agreement with the United States Department of Justice required the City to review and revise the Portland Police Bureau's (PPB) policies concerning use of force. This ordinance was originally submitted as part of a package to approve related amendments to the Settlement Agreement, which address among other things the investigative procedures following an officer's deadly use of force (PPB Directive 1010.10). With the Mayor as Police Commissioner, City Council is ultimately responsible for ensuring that PPB adopts and adheres to policies that meet constitutional requirements and respond to community values.

In November 2016, City Council ratified the renegotiated Portland Police Association labor agreement. This eliminated the long-contested "48-hour rule," a policy that created a 48-hour window before PPB could compel the interview of any officer involved in a deadly use of force incident. Council determined that this policy ran contrary to national best practices. It was City Council's intent to secure a prompt and timely administrative investigation to determine whether an officer's use of deadly force comports with policy and training. The Multnomah County District Attorney's interpretation of the law on this issue has raised concerns regarding the ability of the City to compel interviews of officers involved in deadly use of force incidents within 48 hours, because the DA has expressed that doing so might interfere with his ability to criminally prosecute due to the compelled interview even if an officer engaged in criminal behavior. Recognizing that this is an unsettled area of case law, the City has closely examined the DA's position and the applicable case law, and has concluded that it can protect both the City's compelling interests in a prompt administrative investigation and officers' constitutional rights against self-incrimination. This Ordinance directs the Portland Police Bureau, in consultation with the City Attorney and the United States Department of Justice, to develop a new Directive 1010.10 that serves both of these interests.

Financial and budgetary impacts:

The policy change is not expected to have a financial or budgetary impact

Community impacts and community involvement:

This legislation directly touches upon issues of police accountability within the Portland community. The procedures surrounding administrative investigations are inherently matters of

public interest. Historically, on both national and local levels, the prosecution of officer involved in deadly use of force incidents is rare (and convictions even rarer). Thus, while the importance of criminal investigations cannot be understated or overlooked, the importance of administrative investigations is that much more pronounced as the public has found that administrative investigations are often the only meaningful opportunity to hold officers accountable for wrongful uses of deadly force.

While many segments of the Portland community support the constitutional rights of officers, there has been much consternation about the effects of implementing a policy that adheres to the District Attorney's interpretation of *State v. Soriano* (1984) by precluding interviews compelled within 48 hours. Halting implementation of the version of 1010.10 that does not allow for compelled interviews prior to the completion of the criminal investigation serves the community's interests in prompt administrative investigations, and the safeguards to be afforded to officers minimizes the risk of conferring immunity from criminal prosecution

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

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