POLICE TASER USE:

Incidents generally resolved, but some practices and policies could be improved

November 2010

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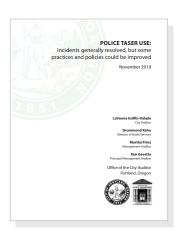
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November 18, 2010

TO: Mayor Sam Adams

Commissioner Nick Fish Commissioner Amanda Fritz Commissioner Randy Leonard Commissioner Dan Saltzman Chief of Police Michael Reese

SUBJECT: Audit Report – Police Taser use: Incidents generally resolved, but some practices and

policies could be improved (Report #386)

The attached report contains the results of our audit of the Portland Police Bureau's policies and practices regarding the controls over, and results of, Taser use. We assessed effectiveness and several aspects of policy, and also compared Bureau policy to model policies and to other police agencies.

Overall, we found Police Bureau use of Tasers in 50 sample incidents to be mostly effective, although officers often used more than one cycle of the Taser to resolve incidents. We also found that while some key aspects of policy were followed by officers and managers, others were not, and that some areas of policy need clarification to ensure greater accountability. Finally, we found that the Bureau's Taser policy is mostly in line with the policies of other agencies and model policies, with a few exceptions, and that regular assessment is needed.

We ask the Portland Police Bureau to provide us with a status report in one year, through the office of the Mayor, detailing steps taken to address the recommendations in this report.

We appreciate the cooperation and assistance we received from Portland Police Bureau staff as we conducted this audit.

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Attachment

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Summary

In the few interactions between the police and the public that involve the use of force, the Portland Police Bureau allows officers to use a variety of techniques and tools. Among these are conducted energy devices, which we refer to as "Tasers" in this report. Taser is the brand name of the most widely used such device, and is the brand used by the Police Bureau.

When police officers use force, the range of options available to them, depending on the situation, include "hands on" techniques such as control holds, "less lethal" tools, and firearms. Less lethal tools, which can provide police officers with an alternative to deadly force, include Tasers, beanbag shotguns, pepper spray, and batons. Tasers and other less lethal tools allow officers to control situations with a far lower risk of death or serious injury than when a gun is used, and without requiring personal contact with the subject.

Our review of professional literature, our interviews with a broad range of stakeholders, and our monitoring of local and national media have shown that Tasers, while increasingly common, are a controversial law enforcement tool. Some recent legal cases illustrate the complexities involved when officers use a Taser. And while much of the academic research shows that Tasers are safe in most circumstances, there is still debate over some aspects of their use, such as in prolonged and multiple cycles and use on at-risk individuals.

We audited the Portland Police Bureau's policies and practices for using Tasers in this report. Our review found:

Taser use was mostly effective in resolving incidents in our sample of 50 cases from 2009, although officers often used more than one cycle.

In about 80 percent of the cases we reviewed, Taser use led to the resolution of the incident. However, more than three cycles were used in about one-fifth of the 50 cases. Although several cycles of the Taser may in some cases be warranted, and effectiveness rates can improve with each cycle, the Bureau should monitor incidents involving multiple cycles to make tactical improvements where possible and to ensure officers are following consistent practices.

Portland Police followed Bureau Taser policy in several key areas, but fell short on meeting some supervisory and documentation requirements.

Based on our sample, the Bureau's officers and managers usually followed the Taser policy, but the Bureau should clarify some requirements and ensure adherence to existing requirements, particularly in the area of supervision and documentation. We found general compliance with Bureau policy in the following areas:

- Incident reports mostly provided a reasonable understanding of key elements of Taser cases.
- Supervisory reports, when completed as required, were generally thorough and indicated supervisory review.
- Use of Tasers on restricted subjects was minimal and only occurred in cases in which the subject condition was not known to the officer.
- Use of Tasers on handcuffed subjects was minimal and within policy guidelines.
- Supervisors were almost always notified of Taser use.
- Taser training requirements for officers were almost always met.

However, the Bureau could improve in these areas:

- Supervisory reports were not always completed when they should have been. In addition, the Bureau should clarify and emphasize the need for supervisory reports when certain conditions are present.
- Warnings to subjects before Taser use were often not documented as required. As a result, it was not possible for us to determine if subjects were warned in every case we reviewed.
- Force reports indicating Taser use were not always signed by supervisors.

Portland Police Taser policy is largely in line with other cities and with model policy recommendations developed by a nationally-recognized professional police association.

However, the Bureau should consider policy changes in a few areas to better match other cities and model policy recommendations. For example, Portland Police policy requires less physical resistance by subjects to justify using a Taser than in some cities and in model policies. Also, model policy recommendations and the policies of three other cities whose policies we reviewed call for medical evaluation after every Tasering, in contrast to Portland policy. The Bureau should also consider adopting model policy guidelines to direct officers to use the minimum number of cycles to control a situation. Bureau staff should assess these issues and also continue to monitor new developments in light of rapidly evolving views of and research on Tasers.

It is important to note that we did not conduct this audit due to any specific concern about the Bureau, but rather because of the potential for risk to human health from Tasers and public interest in the topic. We also undertook this audit because the Bureau fully implemented its Taser program in 2005 and it had not yet been subject to an independent review.

Chapter 1 Introduction

Portland Police personnel handle about 445,000 calls for service from the public each year. In rare cases - less than one-quarter of one percent of the time – an officer's interaction with the public involves a use of force by the officer to gain control of a situation. Tasers are used in about one-third of these force cases. The Bureau fully adopted Tasers in 2005 after a trial period during which policies and procedures were developed and refined. Since then, the Bureau has made efforts to keep policies and training methods up-to-date in the changing technical and legal environment surrounding Tasers.

Use of force by Police is at times a part of Bureau operations

The mission of the Portland Police Bureau is to reduce crime and the fear of crime by working with all citizens to preserve life, maintain human rights, protect property, and promote individual responsibility and community commitment. The Police Bureau is one of the City's largest bureaus, with a budget of \$158 million and almost 1,000 sworn staff.

Within Portland Police Bureau policy, officers are authorized to utilize force in certain circumstances. These include preventing or stopping a crime, taking a person into custody, making an arrest, preventing escape, and preventing a suicide or serious self-inflicted injury. An officer may also use force to defend him or herself or others from physical force or to accomplish some official purpose or duty that is authorized by law or judicial decree.

According to our analysis of Police Bureau records, less than onequarter of one percent of police encounters involve force, and overall use of force by the Bureau has declined by 50 percent over the past five years, as shown in Figure 1. In comparison, Bureau records show that all calls for service to the Bureau have declined by 4 percent over those same five years, as shown in Figure 2.

Figure 1 Total use of force incidents

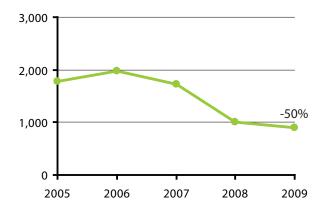
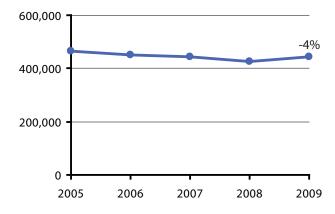


Figure 2 Total calls for service / incidents



Source: For Figures 1 and 2 - Portland Police Bureau

The types of force officers can use include control holds, take downs, hobbling, hands/feet, batons, pepper spray, Tasers, beanbag shotguns and firearms.

Law enforcement agencies classify the Taser as a "less lethal" weapon. Less lethal weapons are designed to temporarily incapacitate or restrain an individual when lethal force is not appropriate. The purpose of the Taser is to allow police officers to subdue subjects more quickly, safely, and effectively than is possible using other techniques. Besides Tasers, other weapons considered less lethal include beanbag shotguns, pepper spray, batons and night sticks.

Tasers and other conducted energy devices are in wide use at law enforcement agencies across the country, and in other countries as well. A survey of more than 500 U.S. state and local law enforcement agencies found that just under half issued such devices to at least some personnel.

How Tasers work

In the most commonly used mode, known as the "probe" mode, the Taser emits an electrical current which causes a person to momentarily lose control of his or her body by temporarily incapacitating their neuromuscular system. The subject also feels the pain of the electric shock generated by the Taser. With the subject briefly incapacitated, an officer can take control of the incident by securing the subject.

Safety switch

Sights

Cartridge holds probes

X26

Trigger

Laser sight

Figure 3 X26 Taser

Source: Audit Services Division photo

In the probe mode, the Taser has a cartridge attached that fires barbs attached to wires. These wires transmit electricity to the subject. Each transmission of electricity from the Taser is called a cycle, with each cycle typically lasting five seconds. One press of the trigger activates the Taser for one cycle. If a second cycle is needed, the officer can pull the trigger again to send an additional wave of electricity through the probes that are already attached to the subject. The only time a second cartridge is needed is if the first set of probes did not make good contact with the subject. Sometimes poor contact results from the subject wearing heavy clothing, having low muscle mass at the probe site, or moving so much that the officer misses.

Another way for an officer to use a Taser is in the "drive stun" mode, in which probes are not fired, but the officer shocks the subject by pressing the Taser directly against the subject's skin and pulling the trigger. This method does not cause neuromuscular incapacitation but it does cause pain.

The Bureau fully adopted Tasers in 2005

The role that Tasers can play in effectively and quickly ending conflicts was appealing to the Portland Police Bureau as it considered adopting a Taser program. The Bureau consulted medical professionals who agreed that the ability of Tasers to end conflict quickly could be especially useful in cases where people were in an agitated state, during which their health could be negatively impacted by long, drawn out confrontations with officers. In addition, Tasers were seen as a way to reduce the need for deadly force by officers, which was a goal of both the community and the Bureau.

City managers believed Tasers would fill an important gap in the available force choices. Other force tools had drawbacks and also relied solely on compelling subjects to comply by causing pain. Tasers caused pain and also caused a temporary loss of muscle control.

The Bureau began a Taser pilot program in 2002 while conducting extensive research on the use of Tasers by other police agencies. Bureau representatives received input from community members as

well as medical professionals. After a test period, the Bureau decided to issue Tasers to all officers in 2005.

Over the past five years, Taser use by the Bureau has become less frequent, with the number of Taser incidents declining 53 percent over five years. However, Taser use as a proportion of all force used has not changed significantly in that time, and currently represents about 36 percent of all uses of force by the Bureau. Figure 4 shows the decline in all use of force incidents by police officers, as well as in Taser use by officers.

2,000 Force incidents
1,000

Taser incidents

2005 2006 2007 2008 2009

Figure 4 Number of Taser incidents compared to all force incidents

Source: Portland Police Bureau

Experts view Tasers as relatively safe, but more research is needed

Our review of literature shows that Tasers are a relatively safe form of police force. We found that some agencies that use Tasers have reported statistically significant declines in injuries to both officers and subjects. Researchers have found that major injuries due to Tasers are rare, and that rates of minor injury are also low compared to other uses of force. A report to the National Institute of Justice (NIJ) concludes that because Tasers tend to end conflicts more quickly than other forms of force, it is less likely that someone will be injured when a Taser is used.

In addition, a study released in the *Annals of Emergency Medicine* showed that of 1,201 Taser incidents studied, 99.75 percent resulted in either mild or no injuries to subjects.

Studies have shown that significant Taser-related injuries are most often caused by secondary effects such as falling after being Tasered. Portland policy and training urges officers to be aware of the surrounding environment and the potential for secondary injury. Policy specifically says consideration should be given when subjects are standing near a body of water, are in an elevated position, or if the subject is fleeing.

According to a report from the NIJ, there is no conclusive evidence in the current research that indicates a high risk of serious injury or death from the direct use of Tasers. The report points out, however, that safety margins may not be applicable in small children, people with heart disease, the elderly, pregnant women, and other at-risk individuals, and cites the need for more data on these populations.

Also, studies on the effect of extended and multiple cycles are very limited. Because of this, the NIJ and others urge caution in using multiple cycles as a means to resolve conflicts. One review of six cities' use of Tasers found that 93 percent of subjects received three or fewer Taser discharges.

Legal framework for using Tasers is still evolving

The Police Bureau's policy and training protocols are developed in a complex and changing technical and legal environment. While tactical considerations focus on how to safely and effectively use Tasers in certain situations, legal considerations focus on an officer's decision-making process as to when Tasers are the appropriate level of force. In general, courts have ruled that officers can use force on a subject when it falls within the bounds of what a "reasonable officer" would do. This is known as the "Graham standard," which refers to a 1989 court ruling. As a use of force tool, Tasers are subject to this standard.

While that standard sounds relatively simple, the application in specific instances can be complicated, as seen in opinions by the U.S. Ninth Circuit Court of Appeals issued in late 2009 and 2010. One ruling found that Taser use was excessive when used against an unarmed man who did not pose an immediate threat. A second opinion, by a different panel of judges, found that even though a woman attempting to stop the police from arresting her husband in a domestic dispute posed no immediate threat, the use of a Taser on her was not excessive. And in a third opinion, by yet another panel of the Ninth Circuit Court, the panel ruled to allow the Tasering of a pregnant woman who would not exit her car after refusing to sign a traffic citation.

The City Attorney's Office views these court opinions as the beginning of a process that will eventually provide better guidance on when the use of Tasers by police is appropriate. According to Bureau managers, the Bureau convened a task force to review Taser policy even before these Ninth Circuit opinions.

Current policy

Bureau policy prescribes who can carry a Taser, when Tasers may be used, and what should happen after Tasers are used, including medical response, reporting, and oversight. This section describes some of the fundamentals of the policy.

As one of several forms of force that can be employed by officers, the reporting of Taser use comes under the general framework of the Bureau's Physical Force policy, which provides guidance for all uses of force. The overriding directive is that officers may only use the amount of force reasonably necessary under the "totality of circumstances" to perform their duties. Totality of circumstances includes consideration of the severity of the crime, the immediate threat to the safety of others, and the time, tactics and resources available at the scene. Officers are also expected to display, over the course of their career, the ability to regularly resolve confrontations without resorting to the higher levels of allowable force. In addition, the Bureau has specific policies on the use of batons, pepper spray, firearms and Tasers.

In general, an officer is authorized to use a Taser when a person engages in, or displays the intent to engage in, physical resistance or aggressive physical resistance to a lawful police action. Taser policy prohibits its use on people in certain groups except in specific circumstances. These groups include people known to be or obviously in the following categories: over the age of 60, under the age of 12, pregnant, or medically fragile (note that we refer throughout this report to these categories of people as "restricted subjects" for the sake of clarity). Emergency Medical Services (EMS) response is required when a person in one of those groups is Tasered, when medical treatment is necessary, or when Taser probes need to be removed from a person's body.

Reporting and Supervisory Review

All Taser uses must be reported on the Bureau's Force Data Collection Report (Force Form). The Force Form contains check-box items and space for a narrative description of the incident so that an officer is able to explain the circumstances and rationale for using force. All Force Forms must be reviewed and initialed by a supervisor.

In addition, if the Taser use meets one of several conditions, additional investigation and supervisory reporting may be needed. These conditions include:

- Taser use on restricted subjects
- Taser use on persons suffering from hyper-stimulation or agitated delirium
- Taser use on persons who are handcuffed
- Taser use that consists of more than three cycles
- Taser use that results in an overnight hospital stay
- Taser use that is outside of Bureau policy

The Bureau calls these additional supervisory reports "After Action Reports." An After Action Report is a separate investigation of the incident by a supervisor, and includes interviews with officers, supporting documentation, a recommendation for further actions on the

incident, and a determination whether the Taser use conformed to Bureau policy. After Action Reports are reviewed by the appropriate Branch Chief and may also be forwarded to other review groups such as the Police Review Board.

Training

All officers carrying a Taser must be certified. To be certified, an officer must have the required amount of training. This includes two hours in basic training on less lethal weapons, 10 hours of additional training specifically on Tasers, and mandatory in-service training. Training incorporates legal, technical, and tactical aspects of Taser use as well as Portland policy. Taser training also includes role playing scenarios. Periodic roll call videos are used to update officers on the latest legal and tactical issues surrounding Tasers.

Chapter 2 **Objective, scope and methodology**

The objective of this audit was to review Portland Police Bureau policies and practices regarding the controls over, and results of, Taser use. We reviewed literature and documents on Tasers produced by academic, governmental, interest group, and industry bodies. We particularly wanted to gain an understanding of current views on the safety and effectiveness of Tasers. New reports were issued on Tasers, and incidents took place which moved the public discussion on Tasers in one direction or another during the course of our audit. These developments are good illustrations of the quickly-changing nature of this topic.

We reviewed and analyzed model policies on the use of Tasers, available from two nationally-recognized police industry associations, and compared Portland's policy to benchmarks. Professional associations such as the Police Executive Research Forum (PERF) and the International Association of Chiefs of Police have conducted research on many aspects of Tasers and issued suggested guidelines for Taser use. Those groups are often cited as a source of best practice information in the public safety profession. After reviewing many of the available studies on Taser use, we found the PERF guidelines to be the most comprehensive. They are based on extensive literature reviews and interviews with knowledgeable stakeholders. We used PERF's fifty-two suggestions as criteria to measure the Bureau's adherence to best practice.

We also reviewed and analyzed Taser policies for eight other police agencies and compared Portland's policy with each, in order to put Portland's Taser policies in a nationwide context. Those agencies were Cincinnati; Denver; Kansas City, MO; Sacramento; San Diego; Seattle; Colorado Springs; and Los Angeles County. We also compared the policies of these eight other agencies to PERF guidelines. In addition, we checked certain key aspects of the Bureau's Taser use against its Taser policy.

We conducted 46 interviews during the course of our audit. We interviewed representatives from the following: PPB staff, management, and medical director; the Portland Police Chief in place at the time of full Taser deployment by the Bureau in 2005; City Attorney; Bureau of Fire and Police Disability and Retirement; Oregon State Medical Examiner; City Auditor's Independent Police Review; Citizen Review Committee; Portland Police Association; Copwatch; State Office of the National Alliance on Mental Illness; Adult Services Division, Dept. of Community Justice, Multnomah County; Mental Health Association of Portland; and the Albina Ministerial Alliance. Our goal throughout these interviews was to gain knowledge of policies and procedures in place at PPB and how they evolved over time, to understand the perspective of various stakeholders, and to gain an understanding of the issues surrounding Taser use.

We attended a full day of Police Bureau Taser training provided to new recruits through the Bureau's Advanced Academy. The bulk of the training was classroom-based, but it also included having the recruits respond to two scenarios, or mock incidents, where they were equipped with a Taser. We observed some of the recruits during each of the two scenarios used that day, and also heard the feedback provided by Bureau trainers to the recruits.

We attended an Advanced Academy class for new recruits on the "fundamentals of the patrol tactics mind set," which focused on how officers can best handle crisis situations while on patrol. Although we did not attend all PPB trainings related to Taser use or the use of force in general, we did gain an understanding of the Bureau's efforts to address challenging incidents.

We selected a random sample of 50 Taser incidents from 2009 to review, and analyzed those cases against policy and effectiveness measures. Our sample represented just over 15 percent of all Taser incidents in 2009. For our review, we examined police records which consisted of the Bureau's Force Data Collection Reports, Investigation Reports, Special Reports, Custody Reports, and After Action Reports. We did not consider whether a Taser was the appropriate tool in the given situation. Rather, we looked for adherence to certain aspects of policy, quality of documentation, evidence of adequate supervisory review, and determined if the Taser use had been effective in resolving incidents.

We also examined injury rates related to the Bureau's use of Tasers, both to subjects and officers.

It is important to note that this audit was not conducted due to any specific concern about the Bureau. Rather, we conducted it because of the potential risk to human health from Tasers, public interest in the topic, and the fact that the Bureau fully implemented its Taser program in 2005 and it had not yet been subject to an independent review.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Chapter 3 Audit Results

Our review of Taser incidents assessed effectiveness, as well as several aspects of policy. We also compared Bureau Taser policy to model policies and to other police agencies. Overall, we found Police Bureau use of Tasers in our sample to be mostly effective. In addition, we found that while some key aspects of policy we reviewed were followed by officers and managers, others were not, and that some areas of policy could be clarified to ensure greater accountability. Finally, we found that the Bureau's policy is mostly in line with the policies of other cities and model policies, with a few exceptions, and that regular assessment is needed.

The 50 Taser cases we reviewed illustrated the variety of situations police officers find themselves in, some of which are more straightforward than others. While it is impossible to generalize across all the cases we reviewed, we did find some common themes in our sample.

In the most typical type of case we reviewed, officers were on scene at a public disturbance. In 32 cases, or 64 percent of the time, at least one person involved in the incident was under the influence of drugs, alcohol, and/or was having a mental health crisis. In some cases, more than one of these conditions was evident. According to the records we reviewed, there was no indication of officers knowing before using the Taser that a subject was in a restricted category.

In the cases we reviewed, the Taser was more likely than not to end the person's resistance. Even though Tasers were not the only force used in our sample cases, they resolved the situation in 80 percent of our cases. Guns were drawn infrequently during these Taser cases and were never fired. Although one Taser cycle was most often used, in many cases officers deployed the Taser more than once. In our 50 case sample, a Taser was used on a person by officers more than one time in 21 cases, or 42 percent of the time.

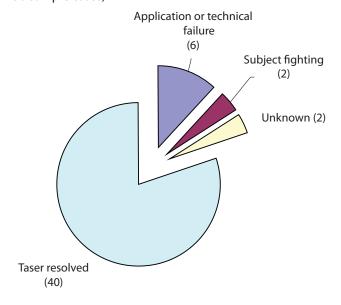
Taser use was mostly effective in resolving incidents in our sample of 50 cases from 2009, although officers often used more than one cycle

Using background research and interviews with stakeholders both within and outside the Bureau, we defined an effective use of the Taser as one that stops a conflict, or, in other words, helps prevent a given situation from escalating into a more dangerous situation or continuing to a point where an officer or subject sustains a serious injury. Tasers should "stop the fight" if they are to be considered effective, allowing an officer to either gain control of a situation or maintain control of a situation. As part of this review, we also examined reported rates of injury to both subject and officer that were associated with Taser use, although in some situations, it was not possible to determine why an injury occurred.

We found that Taser use ultimately resolved incidents in our sample about 80 percent of the time. In those cases we considered resolved, Taser was the last use of force needed to bring the situation under control.

As shown in Figure 5, there were a variety of factors at play when Tasers did not resolve a situation, and in a few cases it was not possible to tell why the Taser did not perform as expected. Examples of why a Taser might not resolve a situation include probes not being fully engaged with a subject's body (an application or technical failure), or a subject being able to fight through the cycle and in some cases even remove the probes from their own bodies. These situations were exceptions, however, to our general observation that Police use of Tasers mostly led to incident resolution.

Figure 5 Taser case resolution and reasons for non-resolution (based on 50 sample cases)

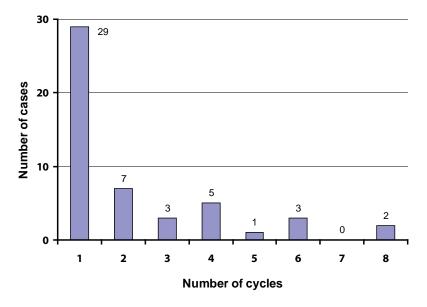


Source: Audit Services Division analysis of Portland Police Bureau case files

We did find that officers often used more than one Taser cycle to achieve resolution, and in slightly more than 20 percent of our Taser sample, officers used four or more cycles of the Taser. As Figure 6 indicates, 58 percent of the Taser incidents we studied involved one Taser cycle. The safety of multiple cycles has not yet been studied to the satisfaction of some researchers, and although the rate of resolution might rise with each cycle of the Taser, so does the potential for injury caused by the Taser.

Figure 6 Number of cycles used per Taser incident

(based on 50 sample cases)



Source: Audit Services Division analysis of Portland Police Bureau case files

We examined reported injury rates to both subjects and officers. One reason the Bureau adopted Tasers in 2005 was that Tasers were viewed as a safe way to stop conflict.

Police records showed that subjects were injured in 11 of the 50 incidents we reviewed. We concluded that four of those injuries were due to Taser use, that six of the injuries could not be linked to any specific cause, and that one injury was not caused by a Taser. In our sample, five injuries to subjects that were Taser-related or of unclear origin occurred during incidents with four or more Taser cycles.

A total of eight officers were injured in five out of the 50 cases we reviewed. We found that three of these eight officer injuries were not due to Taser use, and that five officer injuries were of unclear origin. The unclear injuries consisted of bruises, abrasions and lacerations. In our sample, one case in which officers were injured and the cause of the injuries was unclear involved four or more Taser cycles.

Police records indicated that no guns were fired by officers in any of the 50 cases we reviewed. By that measure, Tasers were "effective" in avoiding the use of deadly force in all 50 cases.

Portland Police followed Bureau Taser policy in several key areas, but fell short on meeting some supervisory and documentation requirements The Police Bureau's Taser policy spells out under what circumstances Tasers are allowed, rules for officers to follow once a decision has been made to use the Taser, and reporting and managerial requirements after a Taser deployment. We reviewed several key components of the policy, which are detailed below.

It is important for all police agencies to have clear policies and procedures, as well as good reporting and supervisory oversight. These are needed to ensure that the organization is achieving its goals and objectives, complying with applicable laws, safeguarding public resources, keeping the public and officers safe, and helping the agency make improvements to training based on actual practices. It is very difficult to have accountability without adequate policies, procedures, reporting and supervisory oversight.

We requested all Bureau documents pertaining to each of our randomly-selected Taser incidents, and received documentation for each case. In 5 of the 50 cases we originally selected, the Taser was not actually deployed. We randomly selected five additional cases to replace these five cases.

Incident reports mostly provided a reasonable understanding of key elements of Taser cases

The Bureau requires different types of reports in different situations. For example, various officers at the scene might be required to complete an Investigation Report, a Custody Report, or a Special Report, depending on their role in the incident. In addition, any officer who uses force against a subject must complete a Force Form.

We found that, overall, the reports we received from the Bureau provided a reasonable understanding of incidents. In addition, with three exceptions, most officers explained the decision to use Tasers.

When completed as required, supervisory reports (After Action Reports) generally provided sufficient information to critique officers' actions and assess policy compliance

Certain uses of a Taser compel an officer's supervisor to complete an After Action Report. These reports, which are narrative reports that describe the police action taken and whether it was acceptable, are a key component of the Bureau's supervisory review process.

Supervisors are required to complete an After Action Report on restricted subjects and persons suffering from hyper-stimulation or agitated delirium. After Action Reports are also required for cases in which more than three Taser cycles were used, a Taser use that was outside of Bureau policy, and for Taser uses that resulted in a subject being admitted to an overnight hospital stay for treatment. As part of the After Action Report, the supervisor is required to make a recommendation as to whether or not the Taser use was within policy, and the Report must then be forwarded to the Branch Chief. The Training Division also receives a copy of the After Action Report. In some cases, additional action might be taken by the Bureau.

For our 50 case sample, we received 13 After Action Reports from the Bureau for our review. Generally, we found that the After Action Reports we received provided the basis for management review. That is, supervisors who completed the reports provided an assessment of the effectiveness and appropriateness of officers' actions.

Taser use on restricted subjects was minimal and only occurred in cases in which the subject condition was not known to the officer

In our review, we found two cases of Taser use on restricted subjects, and in both cases the police reports indicate that the officer learned of the subject's heart condition only after the Taser had been deployed. In each of these cases, the subject received medical attention after the Taser deployment, as required by Bureau policy. Based on our sample, we concluded that the Bureau is following policy on this issue.

Taser use on handcuffed subjects was minimal and within policy guidelines

According to Bureau policy, the threshold for Tasering a handcuffed subject is higher than for a person who is not handcuffed. The subject must be actively trying to harm themselves or someone else. This policy was also emphasized in the officer training session we attended.

In our 50 case sample, we found three incidents in which a hand-cuffed subject was Tasered. In one case, a man was suicidal and trying to harm himself after being handcuffed. In a second case, a man was actively resisting and threatening officers. And in a third case, a man was Tasered who was resisting getting into a patrol car. Officers are trained that using a Taser is preferable to punching someone to get them into a car, which can lead to injuries to both subject and officer.

Supervisors were notified of Taser use by officers

Supervisory notification is important because it is a way to ensure accountability of individual officers, and consistency of police practices across officers. Information reviewed by supervisors can also be used as part of the feedback loop to training.

Officers consistently reported on Force Forms that they notified their supervisors as required by Taser policy. However, we found five instances in which a supervisor was also the Tasering officer and reported that he notified himself. Good management practice suggests that even a supervisor notify someone above him or her in the chain of command.

Vast majority of officers and sergeants met Taser training requirements

Bureau policy states that only those members currently certified with the Taser are authorized to deploy the Taser. Officers are trained on Tasers as part of their Advanced Academy training. In addition, periodic refresher training is offered through annual in-service training and roll call updates. Participation records for both the Advanced Academy and the inservice training are forwarded to the Training Division's main office. Taser certification is important because the public, legal, and technical environment surrounding Tasers is changing so rapidly that it is critical that officers be regularly kept up to date.

We found that virtually all officers met the certification requirements. According to Bureau records, as reported to the Audit Services Division, as of March 2010, only six officers and sergeants had not received Advanced Academy certification. Also, only five other officers and sergeants did not attend the required in-service training in 2009. Records indicated that four of those could not be accommodated because they transferred into the Operations Division after all available training spots had been filled.

After Action Reports were not always completed when needed

We checked that the required After Action Reports (separate review by a supervisor) were completed whenever one of the following clearly identifiable conditions was met:

- Taser was used on a subject more than three times
- Taser was used on a subject who was handcuffed
- Taser was used on a medically fragile subject
- Taser was used on a young, old, or pregnant subject

Although we received a total of 13 After Action Reports from the Bureau, five additional incidents in our 50 case sample involved one of the conditions noted above, meaning that After Action Reports should have been completed for each of those cases. However, the Bureau could not provide us with those five reports when specifically asked for them. Two of the five incidents involved multiple Taser cycles, and three were cases in which the subject had been hand-cuffed. An After Action Report for one of the handcuffing cases was completed by Bureau Operations staff after we made our request for the five missing reports.

The need for After Action Reports in certain cases was not clear

It is difficult for supervisors or outside reviewers to determine the need for After Action Reports in certain cases because of a lack of consistent terminology. For example, the Taser policy requires an After Action Report be completed in cases in which the subject is suffering from "hyper-stimulation" or "agitated delirium," and some description is provided about each of these conditions in the policy. The policy does not specifically cover drugs, alcohol or mental illness. The Bureau's Force Form, which uses prompts or check boxes to highlight key aspects of an incident, includes check boxes for drugs, alcohol and mental illness, but does not include the terms hyperstimulation or agitated delirium.

However, there were no After Action Reports which included the terms hyper-stimulation or agitated delirium in their narrative descriptions of incidents. Given that officers observed mental illness, drugs, alcohol, or some combination of the three in 64 percent of our sample (32 cases), it is possible that some of the subjects in our sample might have been experiencing hyper-stimulation or agitated delirium. Since there is no prompt or check boxes for hyper-stimulation or agitated delirium, supervisors may not have been aware of the requirement to file After Action Reports, if indeed some of these subjects were suffering from these conditions.

If the Taser policy and the Force Form used the same terminology, the Bureau could better ensure that officers are following policy in this area and that supervisory reviews are thorough.

Warnings before Taser use by officers were not consistently documented as required, and also may not have been given

Bureau policy requires officers to give warnings to subjects before deploying a Taser, if feasible. In addition, whether or not a warning was given must be included in incident documentation in all cases, as well as an explanation for why a warning was not given. Warnings to subjects, such as "Stop or you will be Tasered" are important because they give the subject a final chance to comply with commands, and a warning also lets the subject know what the consequence will be if he or she does not comply with police commands.

Our review found that officers documented that they gave warnings to subjects before the first Taser deployment in 24 out of 50 cases, or almost half the time. It is possible that warnings were given in 19 of the remaining cases, but because they were not documented we were not able to determine if officers gave warnings or not. In the seven other remaining cases, officers specifically reported they did not warn subjects.

Officers gave a variety of reasons for not providing a warning. In one case, the officer moved quickly to stop an assault on another person. In a second case, the officer said he did not give a warning because other officers were fighting the subject. In another case, the subject was suicidal and standing on a bridge. In the four other cases, officers felt they either did not have time to give a warning, thought the warning would be ignored, or wanted to surprise the subject for a particular tactical reason.

We concluded that officers are not consistently following policy to document warnings, and may also not be giving warnings to subjects as often as they should be.

Supervisors did not always sign Force Forms

In five out of 50 cases, at least one Force Form was not signed by a supervisor. In addition, there were seven incidents in which a Tasering officer was also a supervisor and signed the Force Form. Good management practice suggests that even a supervisor should receive a sign-off from someone above him or her in the chain of command.

Portland policy largely in line with other cities and model policy

Portland Police Taser policy is largely in line with other cities and with model policy recommendations developed by a nationally-recognized professional police association. However, the Bureau should consider policy changes in a few areas and continue to monitor new developments in light of rapidly evolving views of Tasers.

It is important for the Bureau to keep abreast of trends and make every effort to incorporate the latest technical and legal developments with tactical needs. Otherwise, the Bureau and the City risk increased injuries to officers and the public, decreased effectiveness in stopping and deterring criminal activity, and increased financial liability.

Our interviews and document review led us to believe that both the Bureau and the City Attorney are monitoring best practice trends in Taser use and policies, and are providing periodic in-service training updates to officers.

We compared Portland policies to suggested guidelines issued by a nationally-recognized professional police association, the Police Executive Research Forum (PERF), and to eight other agencies. Compared with PERF's suggested guidelines, Portland policies are at least as thorough as the eight other agencies we reviewed. However, Portland policy differs from suggested guidelines and from some other agencies in some important areas.

Figure 7 shows how the Portland Police Bureau's Taser policy compares to several of the PERF guidelines and to the policies of other agencies we analyzed.

Figure 7 Comparison of selected police agency Taser policies to suggested guidelines issued by the Police Executive Research Forum (PERF)

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PERF Guidelines ¹	\ \Q^{c}	ski is	Si. \ 2	To To	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	, si	₍	\\\?	7° / 7°
Taser use if subject is actively resisting or about to harm someone		✓	✓			✓	√		√
Specifically directs officers to use minimum number of cycles necessary		✓				✓			
Pregnant, the elderly, young people, frail, included in cautionary groups	√					✓	✓		√
Restrictions on Tasing handcuffed subjects	✓					✓	✓	✓	✓
Medical attention after every Taser use			✓			✓		✓	
Warnings given to subject if possible	√	√	√			√			√
Restrictions on where to aim Taser	√	√	√			√			
Supervisory initial review of every Taser use	√	✓	✓	✓	✓		√	✓	√
Use of Force report after every Taser use	√	✓	✓	✓	✓	✓	√	✓	√

Source: PERF CED Guidelines for Consideration, published in "Conducted Energy Devices:

Development of Standards for Consistency and Guidance;" Audit Services Division review of policy documents from selected cities.

This is not a comprehensive listing of all PERF suggested guidelines. In all, PERF has 52 suggested guidelines which we reviewed for this report.

Portland policy allows Taser use in more situations than suggested by PERF guidelines

The level of subject resistance needed to justify Taser use is an important topic and is a constantly evolving concept. PERF guidelines say that a Taser should be used only on subjects who are actively resisting, being actively aggressive, or to prevent the subject from harming themselves or others. Portland policy is more permissive than PERF guidelines in that it allows Taser use when the subject shows only the intent to resist lawful police action. In addition, we found that five of the eight other agencies whose Taser policies we reviewed have thresholds on subject resistance at least as strict as those recommended by PERF.

Portland policy on Taser use on restricted subjects is similar to PERF guidelines and is more complete than that of several other agencies reviewed.

Medical response policy differs from suggested guidelines

Three of the eight comparator agencies agree with the PERF guide-line that all Tasered persons should receive medical attention. Portland policy does not require medical attention after every Taser deployment. Instead, Portland policy only requires medical attention if the Tasered person is in a restricted group, if there is an injury, or if the probes are embedded in a person's body. Two agencies further require that all Tasered subjects be transported to a hospital for evaluation. Portland does not have that requirement.

Portland policy does not include explicit directives to use the minimum number of cycles needed to control subjects

Portland police officers are instructed to always use the least amount of force necessary to control a situation regardless of the type of force employed. This framework for use of force is referred to in general terms in the current Taser policy and is detailed in the Bureau's Physical Force Policy. However, PERF recommends that police agency policies state that officers use the minimum number of cycles necessary to place a subject in custody. Two of our comparison agencies explicitly state this in their policies.

Tactical considerations agree with recommended guidelines

For the most part, Portland policy is in agreement with PERF recommendations on where to avoid aiming the Taser, on warnings to subjects and other officers, and on not using the Taser around flammable substances. About half of the other cities are in agreement with PERF policy guidelines on tactical considerations.

Review and reporting requirements mostly align with recommended guidelines

For the most part, Portland policy is in line with PERF recommendations and with other agencies on supervisory review and reporting. Supervisors must review all Taser deployments, and a Force Form is completed after every Taser deployment. In addition, Portland requires more in-depth investigations in certain circumstances, usually with an After Action Report.

One agency requires keeping statistics on Tasers that are aimed at the subject but not fired ("laser only") as recommended by PERF. Portland used to track these "laser only" Taser incidents, but discontinued that practice in late 2007.

Training and organizational efforts address most recommended guidelines

Portland Police training covers many of the PERF recommendations for training and organizational efforts. One suggestion the Bureau has not implemented is to conduct audits to ensure that certifications and re-certifications are kept up to date.

Chapter 4 **Recommendations**

Based on our review, we found Portland's use of Tasers to be mostly effective, but officers often used more than one cycle. In addition, Portland officers and managers follow Taser policy in many key areas we reviewed, but fell short on meeting some supervisory and documentation requirements. Finally, we found that the Bureau is mostly in line with the policies of other cities as well as with model Taser policy, although it should consider some changes and continue to monitor new developments as they arise.

We recommend that the Mayor, through the Police Bureau, ensure that the following recommendations are implemented:

 Closely monitor incidents in which multiple Taser cycles are used so that improvements can be made where possible and to ensure that officers are following consistent practices.

One commonly cited concern about Taser use is in the area of multiple cycles. Although avoiding multiple cycles may not always be possible, the Bureau should ensure officers are consistent about when they use multiple cycles of the Taser and that these uses are necessary to achieve tactical goals.

2. Follow Taser policy more consistently, particularly in the areas of supervision and documentation. Also, ensure that language in Taser policy mirrors language in Force Forms, and that supervisory and reporting practices are consistent Bureau-wide.

The Bureau is following many aspects of policy, but is not following some aspects as closely as it should be, such as completing After Action Reports when needed; documenting warnings; signing Force Forms; and ensuring that all Taser officers, regardless of rank, notify their supervisor when required. The Bureau should also consider using consistent terminology in its policy and reporting documents associated with drug use, alcohol use or mental illness to ensure accountability and consistency in these areas.

3. Consider policy changes in a few areas to better match model policy and other cities' policies, and continue to regularly assess new developments to ensure alignment with best practices and legal, technical and tactical considerations.

Specifically, we recommend the Bureau assess Taser policy in the following areas: the level of resistance needed to justify Taser use, the need to state that officers should use the minimum number of cycles to control a situation, and the need for medical evaluation after Taser use. It is especially important to continue to re-evaluate policy because Tasers are still relatively new and views of best practices and legal considerations are constantly evolving. The Bureau should make every effort to stay current with any new developments as they arise, and to make changes to policy, practices, and training as needed.

Appendix Resources reviewed

We read the reports, articles and abstracts listed below as part of our research. In some cases, we identified these resources from our work; in other cases, resources were suggested to us during the course of our audit.

ACLU of Oregon, Recommendations Regarding Police Use of Conducted Energy Devices, 2007

Amnesty International, "Less Than Lethal? The Use of Stun Weapons in U.S. Law Enforcement," 2008

Bozeman, William P., Wake Forest University, Hauda II, William E., Virginia Commonwealth University and George Washington University; Heck, Joseph J., University Medical Center Las Vegas, NV; Graham, Derrel D. and Martin, Brian P., Louisiana State University Health Sciences Center Shreveport, Shreveport, LA; Winslow, James E., Wake Forest University; "Safety and Injury Profile of Conducted Electrical Weapons Used by Law Enforcement Officers Against Criminal Suspects," Annals of Emergency Medicine, 2008

Bozeman, W.P., Barnes, Jr., D.G., Winslow III, J.E., Johnson III, J.C., Phillips, C.H., Alson, R., "Immediate Cardiovascular Effects of the Taser X26 Conducted Electrical Weapon," Emergency Medical Journal, 2009 (abstract)

Chand, Manish, Nash, Guy F., "Are TASER guns really safe?", British Journal of Hospital Medicine, 2009 (abstract)

Council on Science and Public Health, Report 6, "Use of Tasers by Law Enforcement Agencies," 2009

Force Science Research Center articles: "Deep Flaws in Canada's Braidwood Inquiry, " 2009; "Destroying Myths and Discovering Cold Facts with the Force Science Research Center: Force Science questions new Taser report on Canada Incident," 2009; "Research Roundup: Latest on Tasers, arrest-related deaths, excited delirium," 2009

Garner, Joel H., Joint Centers for Justices Studies, Inc., Maxwell, Christopher D., Michigan State University, Heraux, Cedrick, Michigan State University, "Patterns of Police Use of Force as a Measure of Police Integrity," 2004

Ho, J., Dawes, D., Johnson, M., Lundin, E., Miner, J., "Impact of conducted electrical weapons in a mentally ill population: a brief report," The American Journal of Emergency Medicine, 2007 (abstract)

Ho, J.D., Dawes, D.M., Miner, J.R., "Multiple Simultaneous Exposures of Electronic Control Devices (ECDs) in Human Volunteers" 2009 (abstract)

International Association of Chiefs of Police "Electro-Muscular Disruption Technology, A Nine-Step Strategy for Effective Deployment"

MacDonald, John M., Kaminski, Robert J., Smith, Michael R., "The Effect of Less-Lethal Weapons on Injuries in Police Use-of-Force Events," American Journal of Public Health, December 2009 (abstract)

Mesloh, Charlie, Florida Gulf Coast University; Henych, Mark, Advanced Research Solutions; Wolf, Ross, University of Central Florida; "Less Lethal Weapon Effectiveness, Use of Force, and Suspect and Officer Injuries: A Five-Year Analysis: A Report to the National Institute of Justice," 2008

Morgan, John, United States Department of Justice, NIJ Journal, Issue No. 261, "Medical Panel Issues Interim Findings on Stun Gun Safety,"

Police Assessment Resource Center, The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths: Third Follow-Up Report, 2009 Police Executive Research Forum, "Major Research Study by PERF Indicates that CEDs Can Reduce Injuries to Police and Suspects, But PERF Continues to Urge Caution," published in Subject to Debate: A Newsletter of the Police Executive Research Forum," 2009

Smith, Michael R., Kaminski, Robert J., Alpert, Geoffrey P., University of South Carolina; Fridell, Lorie A., University of South Florida; MacDonald, John, University of Pennsylvania; Kubu, Bruce, Police Executive Research Forum, "A Multi-Method Evaluation of Police Use of Force Outcomes," 2009

Smith, M.R., Kaminski, R.J., Rojek, J., Alpert, G.P, Mathis, J., "The impact of conducted energy devices and other types of force and resistance on officer and suspect injuries," 2007 (abstract)

United States Department of Justice, National Institute of Justice, Special Report, "Study of Deaths Following Electro Muscular Disruption: Interim Report," 2008

United States Department of Justice, Office of Community Oriented Policing Services, "Conducted Energy Devices: Development of Standards for Consistency and Guidance: The Creation of National CED Policy and Training Guidelines," Cronin, James M. and Ederheimer, Joshua A., 2006

United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics," Special Report: Arrest-Related Deaths in the United States, 2003-2005," Mumola, Christopher J., 2007

United States Department of Justice, Office of Justice Programs, "Use of Force By Police: Overview of National and Local Data," 1999

United States Government Accountability Office, "Taser Weapons: Use of Tasers by Selected Law Enforcement Agencies," 2005

White, Michael D. and Ready, Justin (John Jay College of Criminal Justice), "The Taser as a Less Lethal Force Alternative," Police Quarterly, 2007 (abstract)

Wu, J.Y., Sun, H., O'Rourke, A.P., Huebner, S, Rahko, P.S., Will, J.A., Webster, J.G., (University of Wisconsin, Madison); "Taser dart-to-heart distance that causes ventricular fibrillation in pigs," 2007 (abstract)

Responses to the Audit



OFFICE OF MAYOR SAM ADAMS CITY OF PORTLAND

November 8, 2010

LaVonne Griffin-Valade City Auditor 1221 SW 4th Ave., Room 140 Portland, Oregon 97204

Dear Auditor Griffin-Valade:

As Police Commissioner, I am committed to transparency and accountability throughout the Portland Police Bureau. The use of the Taser as a less-lethal tool remains a topic of discussion in our community. This report, along with Chief Mike Reese's response, will provide community members with factual data and the reassurance that the City has reviewed current trends, practices and litigation associated with the Taser.

Chief Reese's response includes action items the Bureau has already taken, based on the recommendations made in this audit. These action items include outlining expectations to supervisors, reinstituting critical training for supervisors as well as improving procedures and conducting periodic audits concerning Taser After Action Reports.

This useful audit will help guide the Police Bureau's efforts to ensure accountability in the use of the Taser. On behalf of the citizens of Portland and the members of the Portland Police Bureau, I appreciate your examination of this issue and agree with the report's recommendations.

Best Regards,

NA.M

Sam Adams Mayor

City of Portland



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor
Michael Reese, Chief of Police
1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

MEMORANDUM

November 8, 2010

TO: LaVonne Griffin-Valade

City Auditor

SUBJ: Portland Police Bureau Taser Use Audit

Dear Ms. Griffin-Valade:

I want to thank you and your staff for the opportunity to address the recommendations included in the 2010 Taser Use Audit report. The Portland Police Bureau strives for accountability and transparency in all our uses of force and I welcome the opportunity to share what we have implemented for improvement in these areas.

Overall, national research has shown the Taser to be a safe less-lethal force option. Taser use in Portland has resulted in relatively few injuries, complaints, tort claims, or lawsuits. Compared with other law enforcement agencies, Portland publicly reports use of force data in a more comprehensive manner. In addition, twice a year, supervisors are reviewing force practices at each precinct and conducting reviews of every sworn member's performance in confrontations.

Since the Auditor's Office began its review, the Portland Police Bureau has taken several steps to address issues included in your findings that I am confident will satisfy your recommendations regarding supervision and documentation. These actions include:

- Issuing letters of expectations to sergeants involved in Taser incidents where no After Action report was completed reminding those sergeants of their obligations.
- Reinstituting the Sergeants In-service training.
- Performing periodic audits of Taser cases to see if After Action Reports are being completed and reviewed by the Chief's Office.
- Implementing procedures whereby After Action reports are scanned and dated as soon as they are received.

In January 2010, several members of the Bureau, City's Risk Management and the City Attorney's Office met to discuss current trends, practices, litigation case law related to Tasers. A subcommittee was convened as a follow up to further discuss policy decisions regarding whether to prohibit the use of the Taser to control non-compliant and/or fleeing subjects; or whether to allow use of the Taser only when the subject engages in or displays the intent to engage in

physical resistance. We are currently engaged in discussing these issues with community members at our Public Safety Action and Police Advisory committees. In terms of medical evaluation after Taser use, Portland did a very thoughtful and conservative trial period of requiring a medical response to all Taser incidents. After evaluating and discovering no issues, and, upon recommendation by the Taser Medical Roundtable, including the State Medical Examiner and Multnomah County Director of Emergency Medical Services, we discontinued this practice and we changed our medical response criteria to its current version.

It is also important to acknowledge a change in the Taser policy was made in 2008 directing supervisors to complete an After Action Report after three cycles of the Taser, reduced from five cycles, to highlight awareness and the supervision of incidents with multiple Taser cycles.

The Police Bureau's changes to the Taser policy and training and this auditor report on the Bureau's Taser use is part of our continued efforts for transparent dialogue within the Bureau and with our community members and partners. This report provides insight into how we might better reach that goal.

Sincerely,

MICHAEL REESE Chief of Police

Michael Reese

MWR/MW/mp

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Police Taser use: Incidents generally resolved, but some practices and policies could be improved

Report #386, November 2010

Audit Team Members: Martha Prinz, Ken Gavette

LaVonne Griffin-Valade, City Auditor Drummond Kahn, Director of Audit Services

Other recent audit reports:

Business system software implementation: Expensive, late and incomplete (#392, November 2010)

City of Portland 20th Annual Community Survey Results (#395, November 2010)

Facilities Services: Project management practices improved (#394, September 2010)

This report is intended to promote the best possible management of public resources. This and other audit reports produced by the Audit Services Division are available for viewing on the web at: www.portlandoregon.gov/auditor/auditservices. Printed copies can be obtained by contacting the Audit Services Division.

