

Phase Two Report: Portland's Implementation of Public Order Policing Recommendations

INDEPENDENT MONITOR LLC

Submitted By:

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To the City of Portland, the United States Department of Justice, Monitor Mark P. Smith, Members of the Portland community, and the Portland Police Bureau:

We provide this assessment to follow up on our Phase One Report, which was issued on August 8, 2023. In the Phase One Report, our team (which includes Dr. Matthew Buttice and Peter Davidov) made twelve actionable recommendations (“Recommendations”) intended to help the City of Portland (“City”) learn from the disorder that befell it in 2020. The goal was to assist the City in developing a framework for effectively and constitutionally managing public order events in the future. We are pleased to report that in the last year, the City and the Portland Police Bureau (“PPB”) have taken meaningful—but in some cases preliminary—steps to implement the Recommendations. Details about the work that has been accomplished, and what still remains to be done, is presented for each Recommendation below. We are again grateful to the City, PPB personnel, and members of the community for their cooperation as we conducted this follow-up assessment.

Sincerely,

Nicholas E. Mitchell
Independent Monitor LLC

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Glossary

2-Chlorobenzylidene Malononitrile (“CS”)	Otherwise known as “tear gas,” CS gas is a riot control agent that causes eye tearing and burning sensations in the nose, eyes, mouth and throat, resulting in profuse coughing, nasal mucus discharge, difficulty breathing, and partial incapacitation, among other effects. ¹
After-Action Reports	Forms completed by PPB supervisors to document the findings associated with their investigation into uses of force. Once completed, the forms are forwarded through the chain of command for review.
Civil Disturbance and Riot Declarations (“Unlawful Assembly Declarations”)	Determinations by PPB that certain gatherings are unlawful and either 1) present dangers of riot, disorder, interference with traffic upon the public streets; 2) produce another immediate threat to public safety, peace or order; or 3) involve six or more persons engaging in tumultuous and violent conduct that creates a grave risk of causing public alarm.
Command Post	The location of command personnel who are managing public order incidents, the command post is the “nerve center” of the police response in which significant strategic decisions are made.
De-Escalation	Police strategies to reduce the likelihood of uses of force at public order events, including enhanced dialogue, empathetic listening, and employing time and distance to minimize opportunities for conflict.
Dispersal Order	Police commands, usually delivered by loudspeaker, ordering crowds to leave an area after a civil disturbance or riot has been declared.
Dynamic or “Bull Rush” Tactic	A tactic involving a line of officers running at a group of protesters to encourage them to flee after a civil disturbance or riot has been declared. Sometimes force, such as open hand or baton pushes, is used at the conclusion of a dynamic.
Force Data Collection Reports	Form that PPB officers complete to document incidents during which they used force. Once completed, the forms are forwarded to their supervisors for review.

Incident Command System (“ICS”)	A scalable, standardized organizational structure used for managing large emergencies, including mass protest events, that creates a unified command in which all agencies are accountable to one overall incident commander.
Incident Commander	A police executive who is responsible for the overall control of a public order incident, including determining goals, objectives, and strategies.
Incident Management Team	A staff of police command and other personnel who are responsible for the management of public order incidents in a command post, including an incident commander, operations section chief, and other staff.
Independent Police Review	The police oversight agency in Portland that was responsible for receiving and investigating certain misconduct complaints against Portland police officers. In 2020, Portlanders voted to replace Independent Police Review with a new police oversight entity, which has not yet been created.
Mobile Field Force (“MFF”)	Portland police officers who received a limited amount of public order training and supported RRT in responding to protest events. ² They were, in essence, regular police officers with just enough training to respond to public order incidents but not enough to count themselves as specialists.
Mutual Aid	Arrangements among neighboring jurisdictions that establish commitments of reciprocal support during times of emergency. When one jurisdiction needs help with additional police officers or other resources, the others pledge to provide it.
National Tactical Officers Association	A non-profit organization that develops standards and training for police specialty assignments, including SWAT, crisis negotiations, and canine. Also, the publisher of standards for public order policing that establish best practices for developing police public order units.
Oleoresin Capsicum (“OC”)	Otherwise known as “pepper spray,” an inflammatory agent used in policing and crowd control. Its inflammatory effects irritate the eyes and other mucous membranes and cause a burning sensation, pain, and temporary blindness.
Operations Section Chief	Head of the Operations Section in the command post who determines the tactics that will be used to achieve the objectives set by the incident commander.

Rapid Response Team (“RRT”)	PPB’s in-house public order squad until June 2021 when all members resigned en masse after one RRT member was criminally charged with Fourth Degree Assault. PPB reformed the team in June 2024.
Riot Control Agents (“RCAs”)	Hand-thrown grenades or 40mm projectiles containing OC or CS powder used to disperse crowds. RCAs create clouds of gas that impact everyone within their area of effect, including uninvolved bystanders.
Rubber-Ball Grenades or Area-Impact Munitions	Hand-thrown rubber explosive devices. The devices can be empty or contain rubber balls that project across a 50-foot radius in 360 degrees. The rubber balls and shrapnel from the devices cause physical pain, and the light and sound from the blast may disorient persons nearby.
Settlement Agreement	A legally binding agreement between the United States Department of Justice and the City of Portland requiring the reform of the PPB.

Brief History

Between May and November 2020, the City experienced six months of sustained protest and riot activity that upended life for many of Portland's residents.³ In January 2020, the United States Department of Justice ("DOJ") determined that PPB's handling of these events caused the City to fall out of compliance with a 2012 Settlement Agreement related to policing. In February 2022, the DOJ and the City agreed on several negotiated remedies for this non-compliance, including retaining outside experts to conduct a critical assessment. Pursuant to that agreement, in May 2022, Independent Monitor LLC ("IM LLC") began a wide-ranging investigation, which culminated in the issuance of the Phase One Report on August 8, 2023.

That report thoroughly evaluated the City's handling of the 2020 protests and riots, and PPB's overall approach to public order policing, and it provided 12 actionable Recommendations for change. This included requiring the PPB to dramatically reduce its reliance on riot control agents (like CS gas), rebuild its mutual aid relationships with other jurisdictions, and create a new public order team whose policies, tactics, and practices would be modernized, and premised on de-escalation and force avoidance, where possible. It also included strengthening oversight of PPB's public order team, and developing stringent guidelines to protect against the misuse of plainclothes officers monitoring crowds during public order events. The City publicly accepted and agreed to begin implementing all 12 Recommendations.

In the year that followed, the City took a variety of steps to effectuate that promise. This included (but was not limited to) setting up a Public Order Steering Committee, identifying a group of command personnel to serve as incident commanders or operations section chiefs and convening regular meetings of that group, and building consensus within City government to secure funding to launch the new RRT. It also included early and preliminary steps to introduce the new RRT to the public through a press briefing delivered by Portland Mayor Ted Wheeler and executives from the PPB on June 13, 2024. Pursuant to one of the Recommendations, on March 5, 2024, the City produced a self-assessment articulating the steps it took to implement

the Recommendations, which triggered the initiation of IM LLC's follow up review that resulted in this Phase Two report.

Methodology

To conduct this Phase Two assessment, IM LLC gathered and reviewed information from many sources. Team members reviewed PPB directives related to public order policing and the use of force; standard operating procedures developed for the new RRT, including those concerning less-lethal munitions inventory, training, and crowd-embedded observations teams; and briefing and debriefing checklists used for public order events.

To understand how the new RRT was developed, IM LLC requested and reviewed documents, such as emails, meeting minutes, and memoranda, from the PPB Public Order Steering Committee, Specialized Resources Division Captain, and others involved in standing up the new RRT. Team members also assessed job announcements for RRT leadership positions, the selection criteria used to identify officers to join RRT, and the training records of those chosen.

IM LLC also reviewed records related to efforts to reestablish mutual aid relationships with other counties and law enforcement agencies, including email correspondence and draft intergovernmental agreements. Team members analyzed documents reflecting PPB's efforts to grow its crowd management incident commander program, including the training records of PPB personnel selected to serve as Incident Commanders and Operations Section Chiefs. To learn how PPB updated its training about public order events, IM LLC examined training materials, including training schedules, lesson plans, presentations slides, and a video recording of training provided to the new RRT in June 2024.

IM LLC also visited Portland and interviewed PPB's executive leadership, RRT members, and other non-sworn City personnel (including staff from the Office of the City Attorney and Independent Police Review) and members of the community. IM LLC also listened to community feedback about the new RRT at two forums held by the Portland Committee on Community Engaged Policing in Spring 2024.

Independent Assessment of the City's Implementation of the Recommendations

The text of each Recommendation from the Phase One Report is reproduced in *italics* below, followed by IM LLC's independent assessment of whether or not it has been satisfactorily implemented by the City and PPB. Where necessary, we have highlighted areas where more work is needed.

We note that many of the City's efforts are preliminary, and its self-assessment reflected its efforts as of March 2024. Moreover, documents were produced to us in May and June 2024, and we completed a site visit in June 2024, several months before this report was issued. As such, the City may have completed additional work to implement the Recommendations after June 2024 that is not reflected in this report. Detailed information about each of the Recommendations, including their factual basis and underpinning analysis, can be found in the Phase One Report, which is available at: <https://efiles.portlandoregon.gov/record/16395232>.

Recommendation # 1: The City Must Rebuild its Mutual Aid Network

The unique conditions that gave rise to the 2020 protests and riots—pandemic lockdowns, a brutal police murder, violence from the political right and left, and an inflammatory federal response—were unprecedented. But their singularity should provide no comfort that civil disorder will never again arise in Portland. Someday, it will.

The City's capabilities in 2020 were seriously compromised by the nearly complete fracture of its mutual aid network, and it must make purposeful efforts to rebuild that network before any future disorder. This will likely involve coordinating meetings of regional law enforcement, municipal, and county executives to listen to and address their concerns, and to develop new, more durable intergovernmental mutual aid agreements. Such agreements should provide for joint trainings, resolve outstanding issues regarding indemnification, and include commitments to

supporting all signatories when they are in need. State agencies, such as the OSP, should be approached about a possible role in coordinating these discussions (after all, when Portland's mutual aid system failed in 2020, OSP was required to help fill the gap. It is thus undoubtedly in OSP's interests that the mutual aid network be rebuilt).

We note that a functioning mutual aid system will benefit multiple communities, not just Portland. The City's training facilities, including its VirTra simulator and "Situation Village" are both state-of-the-art and could be a significant resource for regional mutual aid partners. The City's SERT team could also provide significant assistance to neighboring jurisdictions in times of tactical emergency. While Portland cannot force its regional partners to join a new mutual aid network, negotiating new, reciprocally beneficial mutual aid agreements would assist multiple communities in the greater metro area, and all should be aligned on the importance of achieving this objective.

IM LLC Assessment:

The City has taken noteworthy steps to implement this Recommendation that deserve recognition. However, while the City obtained commitments of support for SERT and non-public order operations with several jurisdictions, it has not yet successfully re-established its mutual aid relationships for public order deployments. This remains an area of continuing concern in the event of future large-scale disorder in Portland.

This Recommendation appeared first in the Phase One Report because of how important it is to the City's capabilities of responding effectively and constitutionally to public order events. Ironically, it is also the Recommendation over which the City has the least control. The City clearly recognizes the gravity and importance of its mutual aid relationships and has devoted resources to begin rebuilding them. This included hosting and participating in a series of multi-party meetings with its former mutual aid partners to assess their willingness to reenter new intergovernmental mutual aid agreements. We were told in interviews that these meetings were only moderately successful and, in certain cases, not well attended. It also included holding individual meetings with former mutual aid partners that were more

productive, as well as conversations between and among legal counsel for various jurisdictions attempting to overcome potential legal obstacles to new intergovernmental mutual aid agreements.

The net effect of these efforts is that the City successfully negotiated an interlocal agreement with several jurisdictions related to cooperation among SERT (aka SWAT) teams. This could be very useful for emergencies that primarily require a tactical response, such as active shooter incidents, fugitive operations, or barricaded suspects. However, it does not relate to cooperation among agencies for public order deployments. Somewhat more helpful, the City is also now in the process of negotiating a “Master Interlocal Mutual Law Enforcement Assistance Agreement” (“Master Interlocal Agreement”) with three partner jurisdictions that would provide for the “combined use of personnel during major incidents.” This includes crimes, natural disasters, or similar events that could cause “significant injury, death, or substantial property damage.”

However, explicitly exempted from the definition of “major incidents” are “riot situations” or “crowd control at demonstration events.” That is, while the Master Interlocal Agreement could result in other police or sheriff agencies supporting Portland by handling its 911 calls while PPB officers are deployed to public order events, it explicitly disavows any commitment to providing officers to assist with riot and crowd control. While this framework may be sufficient in the event of normal, short-term public order deployments, we believe that it risks failing in the event of multi-day, large-scale disorder that Portland could struggle to handle alone.

We again reiterate the need for continued work and coordination with other metro-area jurisdictions to develop mutual aid agreements. We believe that state government can play a larger role in coordinating those efforts than it has so far. City personnel have shared some optimism that other jurisdictions may be more willing to consider entering into new mutual aid agreements in early 2025 than they are today. We suggest that building a track record of responding to public order events with a whole-of-government approach, as discussed in the Phase One Report,

will encourage other jurisdictions to again consider partnering with the City for public order events.

Recommendation # 2: PPB Must Dramatically Reduce its Reliance on Crowd Dispersals with RCAs, like CS Gas, at Public Order Events

PPB relied too heavily on crowd dispersals with CS gas during the protests and riots of 2020 instead of targeted crowd interventions. It must strengthen its policies, command training, and resources to ensure that this never happens again.

PPB has already made a number of notable improvements here, including useful updates to its directives on use of force and public order events. These revised directives now require PPB to “use intervention strategies and tactics, such as individual arrests, in an attempt to de-escalate the situation and prevent further unlawful behavior without interfering with members of the crowd who are lawfully assembling.”⁴ Before authorizing CS gas, incident commanders must now consider their likely effects on nearby hospitals, schools, and uninvolved community members.⁵ Specific to tear gas, which includes hand-thrown CS gas grenades, officers are now prohibited from using it without incident commander authorization and only after other reasonable alternatives have been attempted.⁶ These are considerable improvements, but other changes are still necessary.

First, the City must attempt to fix the video blackout that hindered investigations into allegations of police use of force and protester riotous behavior, and blinded the command post in 2020. As noted above, we have worked in various cities in the United States and were shocked by the near total lack of video downtown in 2020 (other than cell phone video, which proliferated). The paucity of sustained police use of force complaints and the difficulty of successfully prosecuting violent, riotous behavior from 2020 are reason enough to explore fixing this issue. The operational value of video to incident commanders is another reason. The City must evaluate whether state law can be amended to allow for the use of temporary

video cameras, such as pole mounted equipment, to be deployed during any future civil disorder.

Second, PPB must formalize its procedures—and safeguards—for the use of plainclothes officers for crowd observation during future civil disturbance. PPB established Echo Squad in November 2020 but it created no standard operating procedures for the squad. It must now develop such standards, including guardrails to ensure that this power is never abused. The standards should include a threshold for use—PPB should not be permitted to use such officers absent a specific, articulable threat of violence or serious disorder, or evidence that such conduct is manifesting. Consistent with state law, the rules must also prohibit observing individuals on the basis of their political affiliations or activities and any such observation should be short-term only until the end of the immediate emergency. And the City must ensure that there is no abuse by implementing routine auditing of the program in anonymized reports that are available for public review.

IM LLC Assessment:

PPB has taken steps to implement this Recommendation, but more work is needed. The most important step taken by PPB was the articulation (in PPB policy and training documents) of a philosophy for public order policing that begins with crowd monitoring, prioritizes dialogue policing through Event Liaison Officers (“ELOs”), and encourages crowd self-regulation, when possible. If these efforts fail, PPB described a tiered approach that will rely on communication and targeted arrests to maintain an environment that is safe for protesters and officers. Only in the most extreme circumstances will crowds be ordered to disperse and the use of riot control agents be authorized.

Key to this approach is an ability to communicate with protesters. PPB is in the process of forming a team of ELOs who will engage with organizers and crowd members to communicate PPB’s expectations and learn about organizers’ goals and plans. As part of this process, PPB sent officers to visit the Columbus Police Department to learn about its dialogue program, which requires involved officers to participate in 40 hours of training on topics such as social identity, case law,

negotiation skills, and de-escalation tactics. These officers wear special attire that identify them as dialogue officers and work within crowds to facilitate communication and identify potential issues before they become serious. Beginning to recruit ELOs in June 2024, PPB is only in the early stages of forming its own program. We are encouraged by this effort and suggest that establishing a fully formed program with trained liaison officers operating under a set of standard operating procedures should be a priority as PPB readies itself to address potential protests later this year.

The City's success in implementing the part of the Recommendation related to access to video is mixed. By September 2024, PPB expects to outfit all of its officers with body-worn cameras. The PPB Body-Worn Camera Directive will require "[a]ll on-duty sworn members in a uniform assignment displaying a badge who take part in ... public order event operations ... regardless of rank" to wear BWCs.⁷ It will also require officers to activate their BWCs when "engaging with the public during a public order event, when consistent with law."⁸ The City's determination about when the use of BWCs is consistent with law and how it trains officers on their use is key. IM LLC requested training records for the use of BWCs during public order events, but that training had not yet been completed and drafts were not shared. While we cannot be certain how officers will be trained and how they will use BWCs in the field during public order events, we expect that the introduction of BWCs will largely address our concerns that the "video blackout" in 2020 limited investigations into allegations of police use of force and protester riotous behavior. The new Monitor of the Settlement Agreement, Mark P. Smith, and his team will be valuable resources for the City as it finalizes relevant BWC policy and training.

The City and PPB have not been able to address our other primary concern about video—that a lack of video available in the PPB command post limits any incident commander's ability to assess crowd behavior, make operational decisions, and to

determine when riot declarations and crowd dispersals are truly necessary. The City's self-assessment stated:

a state court judge interpreted ORS 181A.250 to bar the livestreamed observance of protest activity. The Court ruled that the momentary buffering inherent in livestreaming violated the prohibition on the "collection" of information about "political, religious or social views, associations of activities" of participating protestors, even if the video was not stored or maintained. Under ORS 181A.250, collection of such information is prohibited "unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct." City has appealed the Court's ruling that merely buffering a livestream violates state law.⁹

In addition to appealing this ruling, PPB personnel described efforts to procure pole-mounted cameras or use a network of cameras from private businesses to provide a live video link to activities in the field. Our understanding is that neither is currently an option during public order events, and, as a result, public order command posts will continue to rely only on video from PPB's airplane.

The lack of progress in addressing the downtown video blackout elevates the importance of PPB's effort to establish a trained team of specialized, plainclothes officers ("Echo Squad") to provide information to the command post, and to finalize an SOP for its activation and operations. PPB began recruiting for Echo Squad in June 2024 and is developing its training and SOP. The draft SOP highlights the team's primary responsibility, to "provide information in order to identify suspects who have committed crimes," and also establishes limitations on its operations, such as only entering areas open to the public or otherwise legally accessible to any law enforcement officer, and not taking direct "law enforcement action (such as an arrest or use of force) unless there is an immediate life safety situation which only they can address."¹⁰ Only the Incident Commander may

activate Echo Squad. Significantly, it may only be activated when there are “reasonable grounds to suspect that criminal activity is occurring or will occur.”¹¹

These steps represent notable progress, but to ensure clarity and to better address our Recommendation that PPB establish “safeguards” to ensure against potential misuse of Echo Squad, PPB should revise its draft SOP in several ways. First, the phrase “criminal activity” in the standard for activating Echo Squad is both vague and overbroad in that it could encompass First Amendment activity, such as the occupation of public outdoor space, including public roadways. PPB’s procedures should only permit Echo Squad to be activated in situations that include criminal activity involving violence, or the risk of significant property damage. Minor pedestrian violations and public order offenses are common during peaceful protests, and Echo Squad’s SOP should clearly bar its activation to address these issues.

Second, on its own, “reasonable grounds,” is subject to several possible interpretations. We understand that PPB generally employs a “reasonable grounds” standard for the collection of criminal intelligence and that this standard is analogous to “reasonable suspicion.”¹² Because the use of Echo Squad could have a chilling effect on the willingness of Portlanders to engage in constitutionally protected speech and assembly, we suggest that PPB define the “reasonable grounds” standard in Echo Squad’s SOP, making clear that Echo Squad will only be activated when there are specific, articulable facts, intelligence, or other information that criminal activity is actually occurring or will manifest.

Third, critics have suggested that PPB’s approach to past public order events has sometimes varied depending on the political views of those in attendance.¹³ This includes events before 2020, such as the handling of a June 2017 alt-right Patriot Prayer rally and counter-protests, where some alleged that decisions to seize potential weapons and detain attendees focused disproportionately on the counter-protesters. We did not investigate and we take no position on the merits of those claims. However, to maintain public legitimacy, we recommend that PPB policy, including the SOP for Echo Squad, should squarely address these concerns by requiring that

the decision to activate Echo Squad must be content-neutral and not dependent on the subject of any public order event.

Fourth, to ensure accountability, the Incident Commander responsible for activating Echo Squad should be required to create a detailed record of the specific articulable facts, intelligence, or other information relied upon when making that decision. To protect confidential sources of intelligence and information, these records should be non-public and closely guarded, but available to command personnel for review.

Fifth, the draft SOP should be amended to document a routine procedure for auditing both the decisions to activate Echo Squad and the activities of its officers in the field. A meaningful auditing or oversight function that produces anonymized public reports should be established to ensure that Echo Squad's operations are consistent with the dictates of the First Amendment, PPB policy, and the expectations of the Portland community.

Finally, we recommend that PPB prioritize training for Echo Squad. We understand that training resources are limited, but given the likelihood of public order deployments in late 2024, this training should happen as soon as possible.

Recommendation # 3: PPB Must Strengthen and Clarify its Public Order and Use of Force Directives

Following 2020, PPB updated its directives and addressed several of the issues raised in this report. For example, the directives now require that when time and circumstances permit, dispersal orders will include detailed instructions.¹⁴

Permissive authorizations to use force to “avoid the use of a higher level of force” or when an individual “indicates the intent to engage in physical resistance” have been eliminated.¹⁵ These are noteworthy improvements. However, additional changes are still necessary.

First, while PPB directives prohibit the use of indiscriminate force, they do not explicitly address the use of rubber-ball grenades during public order events. We understand that Oregon Revised Statutes prohibit the use of these munitions, but we recommend that this also be reflected in policy. Second, while PPB directives require that public order announcements be recorded, if feasible, they do not

include accountability mechanisms to ensure compliance. PPB should revise these directives to require that if the officers making the announcements determine that audio recordings are not feasible, they document the reasons in a report. The updated directives should also require that a supervisor review these reports and spot check a number of recorded announcements to ensure conformity with PPB policy.

Third, current PPB directives do not address the dynamic tactic or the baton pushes that were sometimes used in 2020 at its conclusion. If PPB expects to continue to use the dynamic tactic, it should substantially restrict its use through clear policy that states the very limited circumstances under which it is authorized. The directives should also resolve any lingering officer confusion by clearly and explicitly instructing that slowly walking away from an area after a dispersal order does not, on its own, justify the use of force.¹⁶

IM LLC Assessment:

PPB has taken some steps to implement these Recommendations, but more work is required to address those related to dispersal orders and the dynamic tactic. PPB has satisfactorily addressed the Recommendation related to rubber-ball grenades, which are hand-thrown explosive devices that can project rubber balls in 360 degrees. While PPB has not revised its directives to explicitly prohibit the use of rubber-ball grenades, it has decommissioned its remaining supply and the existing Use of Force and Public Order Directives do not list rubber-ball grenades as an authorized munition or force option. Further, rubber-ball grenades are included on a controlled items list that requires City Council authorization before they can be purchased in the future (we note, however, that PPB could fully address this Recommendation by including rubber-ball grenades in the Public Order Directive's list of prohibited crowd control tactics, which currently includes, among other things, fire hoses and canines).¹⁷

PPB has not sufficiently implemented the Recommendations related to public order announcements, such as those ordering a crowd to disperse and warning that those who remain may be subject to the use of force. The PPB Public Order Directive

requires that officers document in an “appropriate police report” announcements, warnings and, if they use force without a warning, the reason for the lack of a warning.¹⁸ It also requires that the IC “[e]nsure announcements communicated to the crowd are clear, consistent (non-conflicting), lawful, and appropriate for the circumstances” and that the “content and timing of the announcement shall be documented and, if feasible, shall be audio recorded.”¹⁹ Nowhere in this Public Order Directive, however, are officers explicitly required to audio record announcements and warnings or, if an audio recording is not feasible, to document why not. And while the IC is responsible for ensuring that announcements are appropriate, there is nothing to require command staff to review recordings to ensure that they were consistent with PPB policy.

Similarly, PPB has not sufficiently addressed Recommendations to provide explicit policy guidance about the use of the dynamic tactic and baton pushes, and the level of resistance demonstrated by those slowly walking away from an area after a dispersal order. When dispersing crowds during the protests and riots of 2020, PPB officers sometimes relied on the dynamic tactic in which a line of officers would run at a group of protesters to encourage them to flee. If they did not run away, officers would sometimes push those who remained or who were walking slowly to force them to leave. In the self-assessment, PPB reported that it has made “clear in training that any force used during or at the conclusion of such a [dynamic] movement is distinct from the movement itself.”²⁰ Further, the training “reminds members that, in the context of a protest, slow walkers are at most engaging in an act intended to delay compliance rather than refuse to comply, which, in Oregon, does not constitute a crime. Without additional factors, their actions do not present a threat to officers or others, and any attempt to evade, if present, only justifies a very low level of force.”²¹

Our review of the 2023 in-service training and the recent RRT in July 2024 confirms that these topics are being addressed. However, we cannot find any policy revisions about the dynamic tactic, baton pushes, or the level of resistance demonstrated by those slowly walking. We understand that the Use of Force Directive is generally organized around the *Graham v. Connor* use of force standard rather than more

detailed discussions about when specific types of force can be used, but believe such guidance should be included for the dynamic tactic in the Public Order Directive near sections that provide additional, specific guidance about the use of tear gas, OC spray, and impact munitions.²²

Recommendation # 4: The City Must Ensure That PPB Directives Related to Internal Controls During Public Order Events Are Followed

PPB did not employ certain important internal controls on officer use of force in 2020 and must ensure that they are used in the future. PPB has already made improvements to certain related policies, including by now requiring officers who use less-lethal weapons during public order events to document all munitions deployed.²³ Supervisors are now responsible for tracking munitions resupplies to officers and reporting information about the munitions deployed to the incident commander.²⁴ Further, the Portland City Council passed a resolution directing PPB to regularly report on its inventory of public order tools and munitions.²⁵ These are key improvements, but they do not clearly identify the systems that will be used to actually track munitions inventories and how they are expended.

In response to our initial request for equipment and munition inventories, we received logs that document less-lethal munition inventories after the Review Period. For some munitions, such as rubber-ball grenades, the logs list the unique serial numbers associated with each munition and have fields for recording information about to whom they were issued and when and where they were deployed. For others, the logs provide an overall count of certain munitions but no fields for information related to their deployment. PPB should update and standardize tracking logs to clearly document not only the overall counts of munitions in inventory but also names of the officers and the times and locations they were expended. It should also build into its directives and standard operating procedures a command-level responsibility to carefully review these logs in the aftermath of public order events.

PPB also updated its directives related to the reporting, investigation, and review of uses of force. The directives establish an audit process to evaluate force reports

and investigations, and, if supervisors fail to meet these requirements, they will face disciplinary action.²⁶ The review process also builds in an opportunity for non-disciplinary evaluation that could lead to additional training for an officer or a more general review of policy and practice concerns.²⁷ PPB command staff must actively engage in this review process to ensure that officers and supervisors are held accountable for implementing these internal controls.

We also take seriously the concerns expressed to us by officers about the onerous burdens of the force reporting process during multi-day public order deployments. We disagree, however, with the suggested conclusion that PPB must therefore relax those requirements. Instead, we recommend that PPB take steps to provide officers and supervisors with the resources necessary to ensure that the force reporting requirements can be met. This includes training officers to narrate their decision-making process regarding force used during public order events into body-worn cameras after the conclusion of the force event. It might also include providing small notebooks with pre-printed forms that allow officers to capture relevant information about uses of force at the first available opportunity rather than making them wait for the end of the shifts when they can get to a computer and their memories may have already blurred.

Most importantly, PPB must allow those working public order events enough time to complete force reporting without cutting into the opportunity to recuperate before the next shift. This can be accomplished by training enough officers in public order policing to permit for shorter shifts or fewer consecutive days of work. We also recommend that PPB consider assigning a group of officers and supervisors to gather evidence and begin investigations as quickly as possible during public order events. While members of this group should be trained and have practical experience in public order policing, their primary responsibility should be force investigation and review rather than public order operations.

IM LLC Assessment:

The new RRT standard operating procedures for managing less-lethal munitions generally address the Recommendation related to munition inventory and tracking,

though the procedures will not be tested until RRT begins deploying to public order events.²⁸ The procedures require the RRT logistics officer or armory team member to issue munitions to squad leaders and grenadiers, and to document the transfer to specific individuals in the “master munitions inventory.”

Squad leaders and grenadiers will now be required to report the final disposition of munitions issued to them, and, if the munitions are deployed in the field, the disposition should generally be linked to a case number associated with use of force or other police report. Squad leaders are also required to provide the RRT commander a summary of all munitions deployed by the end of an operational period. General munition inventories will be reviewed quarterly and any discrepancies in munition counts that cannot be attributed to training, expiration, or documented uses of force will be summarized in a memo to command staff, including the Chief of Police. These are positive developments.

The procedures also address areas where the tracking of munitions and their deployment may become particularly difficult. In situations where PPB may need to resupply RRT officers in the field, the procedures outline squad leader responsibilities, which include documenting at the end of the operational period munitions issued and the names of officers to whom they were provided. The procedures also address the potential for multiple, consecutive days of public disorder and RRT deployments by requiring that RRT provide City Council a report documenting munitions use within five business days whenever it deploys munitions on three or more days in a seven-day period.

It is unclear how these procedures will be implemented in practice when the RRT is called upon to work public order events. In the self-assessment, PPB reported that it will “adopt a system that documents the date, time, personnel, and munitions in/out, including a process for documenting field re-supplies.”²⁹ In interviews with PPB officers, we learned that the current system relies on data entry into spreadsheets, but that there is an effort to move to the more sophisticated electronic, barcode-based system used by the PPB Quartermaster. This effort and any others aimed at easing

the logistical burdens on officers and minimizing the likelihood of data-entry errors makes sense as PPB prepares for future RRT deployments.

While we expect that the procedures in place for tracking less-lethal munition use will be adequate, we are less optimistic about efforts to address the force reporting and review elements of this Recommendation. While PPB has taken some steps to provide officers with additional resources to meet force reporting, investigation, and review requirements, more work is required. The current PPB Force Reporting, Review, and Investigation Directive requires officers who use force to submit force data collection reports (“FDCRs”) prior to the end of their shifts, unless incapacitated.³⁰ These reports must include, among other things, descriptions of the decision-making at each significant point leading up to and during the event, the resistance encountered by each officer that led to each separate use of force, and the specific force used. PPB directives also require supervisors to respond to the scene of uses of force, take officer statements, identify and speak with witnesses, and complete after-action reports within 72 hours of each use of force.³¹ These requirements apply equally to uses of force during normal patrol duties and to those occurring during public order events. Issues with the content and timeliness of these FDCRs and after-action reports from 2020 were a key reason that the DOJ determined that the City had fallen out of compliance with the Settlement Agreement.³²

In interviews, RRT members described efforts to provide officers with resources to make completing thorough and timely FDCRs easier, including the introduction of BWCs and the use of small notebooks for taking notes about uses of force while in the field. Further, PPB’s self-assessment states that “training for use of body worn cameras includes a Recommendation that officers narrate their actions while the camera is activated.”³³ IM LLC requested records associated with that training, but it had not yet been completed and drafts were not shared. As such, we are not able to assess the degree to which the training will prepare officers to narrate their decision-making process regarding force used during public order events into BWCs.

PPB officers shared with us an ongoing concern that these resources would not be enough, particularly if RRT is deployed for multiple, consecutive days. Some

described a desire to purchase mobile data terminals (“MDTs”) or laptops for RRT members to use during breaks while deployed in the field. We also heard an argument that PPB should expand the size of RRT to allow it to meet PPB’s operational needs while holding at least one squad off duty to recuperate and finish any outstanding force reporting.

Similarly, the steps PPB has taken to address the investigation and review of the force used during public order events may be insufficient to meet current requirements if Portland experiences multiple, consecutive days of disorder. In its self-assessment, PPB states that “[i]n order to help ensure the public order unit has accurate and timely force reporting, PPB assigned sergeants specific to the public order unit to perform the after action review.”³⁴ Assigning sergeants to this specific task is an excellent step, but we have several concerns. First, for a law enforcement agency that may already be stretched thin, this task may fall to junior sergeants who lack public order experience. While such sergeants may be more than capable of efficiently processing force incidents occurring during normal patrol activities, the force used during public order events can be different given the equipment and munitions used, and the nature of the interactions officers have with the individuals and groups protesting.

Second, even sergeants with public order experience will struggle with the volume of FDCRs they may need to review during even single-day events. Those we interviewed pointed to a recent public order event at Portland State University. Protesters had occupied the library, and, after several days, PPB officers entered and cleared it. While the event lasted only a single day and was described as “largely devoid of the serious clashes that have rocked other universities,” the involved officers actions generated more than 50 FDCRs that required review by assigned sergeants.³⁵ We heard that meeting the three-day requirement associated with after-action reports was a challenge for this one-day event, and that there is real concern that meeting it during a more prolonged deployment may be impossible.

To address this issue, officers argued that the three-day requirement should be adjusted for public order events or that the general force reporting threshold should be revised to allow for reduced reporting and review requirements for the most

minor uses of force. This is a complicated issue, and any changes need to be agreed to by both the City and the DOJ. We suggest that continued work on the issue of force reporting and review during public order events should be prioritized and believe that the newly appointed Independent Monitor, Mark P. Smith, will be a valuable resource as the City and DOJ seek a satisfactory resolution.

Recommendation # 5: The City Must Create a New Specialized Public Order Team Consistent with Emerging Standards for Advanced Public Order Units

The RRT is disbanded and defunct, but Portland's need for specialized public order policing is as acute now as ever. Policing has various disciplines that are recognized as specialties because they involve extensive, recurring training and mastery of unique tools, equipment, and tactics. These include SWAT, K-9, Explosives/Bomb Squad, and others. In recent decades, progressive police leaders have come to also recognize public order policing as a unique specialization for several reasons.

First, it can be extremely difficult to balance facilitating protest activity with the simultaneous protection of life and property. There are complicated legal and strategic considerations involved, and heightened training and recurring drills and deployments help officers master and retain those perishable skills. Second, public order policing requires specialized equipment that not all officers have the time to certify (and recertify) on, nor do municipal police budgets generally support acquisition for all officers in a department. Third, public order policing involves coordinated movements in squads that require frequent drilling to perfect.

Finally—and most importantly—after years of collective experience in the field, it is our view that extensive public order training, including iterative stress inoculation, can help officers to de-escalate and keep cool in volatile environments, including protests and riots that descend into serious disorder. That is, we believe that public order specialization with a specific focus on constitutional rights and

force avoidance, can help to reduce negative force outcomes, officer and community injuries, and municipal litigation risk.

With the resignation of the RRT, the City will now rely exclusively upon MFF officers to respond to protest and riot. But MFF officers will have only two days of initial training, complemented by infrequent refreshers, and limited opportunities to drill together. We believe that this public order policing architecture—a reliance on officers with minimal public order training in one of the most active protest cities in the nation—is simply insufficient to protect Portland and its residents.

The National Tactical Officers Association Public Order Section, whose members are experts from across the U.S., has developed a set of standards associated with police public order units. These emerging best practices create three tiers of public order units based upon the depth and frequency of their training, their operational capabilities, and the level of disorder they will be capable of managing. Basic units receive two days of initial training and 8 hours of refresher training. They are capable of standing on skirmish lines or protecting buildings in the face of relatively minor disorder or hostility. Intermediate units receive 30 hours of initial training and 32 hours of annual refresher training. They have greater capability than do basic units and can manage a higher level of disturbance, though not serious disorder.

Advanced units are the most highly trained and experienced. They receive a full 40-hour initial training complement, and have frequent, recurring training (96 annual hours) on crowd management procedures, incident assessment, constitutional and human/civil rights, de-escalation, and force avoidance. Their training also focuses on de-escalation, response levels, incident assessment, and the use of operations and equipment logs. They are able to coordinate with other specialized units such as SWAT, Mounted, K-9, Traffic, and Aviation, and

they deploy with specialized personal protective equipment that helps enable them to stay calm during high-stress events.

The RRT's errors in 2020, discussed at length above, do not invalidate Portland's need for an advanced public order unit to help safely manage future protest or riot in the City. As set forth below, the new unit must be shaped by tighter policies, better training, and more rigorous oversight than was the RRT, which will enable it to handle protest or riot with greater accountability and less reliance on force.

IM LLC Assessment:

The City has taken major steps to implement this Recommendation with positive but preliminary results. To execute it, the City and PPB created a steering committee to launch the new RRT, developed budgeting/staffing models for different staffing levels and team capacities, and obtained buy-in from public officials. This includes obtaining political support for an assignment-based pay increase for team members. PPB also attached three full-time employees, at multiple ranks, to devote their full-time to working on creating the team. It also built a training model for 2024, developed a recruitment strategy and vetted/recruited officers, and revised policies, directives, and SOPs to reflect PPB's revised public order policing philosophies.

The public order team is now staffed with 42 officers, 8 sergeants, and a lieutenant, and we are pleased that PPB has made significant progress on this Recommendation. In particular, while the City initially reported that it would only seek to provide 40 hours of training, which would slightly exceed the National Tactical Officers' Association ("NTOA") Intermediate Level, we later learned that the City instead committed to fielding an Advanced level team that trains together for at least 96 hours per year, which is impressive.

However, given the new approach to public order policing, which emphasizes dialogue and targeted arrest, when necessary, rather than crowd dispersal, we were surprised and disappointed that the City chose to again name its public order team "RRT." Our community interviews reflect that the name "RRT" continues to have significant baggage in Portland. Choosing the same name as used in the past

suggests, hopefully erroneously, that the team will function the same as in 2020. We believe that this was a missed opportunity for the City to emphasize its new approach to public order policing by choosing a new and different name than the one used by the team that disbanded in 2021.

The true test will be once the team actually deploys in the field. Building a new team is iterative and requires continuous learning and adaptation. We recommend that PPB executive leadership continually evaluate the success of the new RRT's operations in order to make changes when necessary.

Recommendation # 6: The New Public Order Team Must be Rigorously Scrutinized by PPB Executives, Overseen by Portland's New Oversight Agency, and Transparently Introduced to the Public

Regular internal scrutiny of police specialty units is key to accountability and ensuring that the unit's subculture and practices remain consistent with the agency's overall mission and values. Such scrutiny also helps to ensure that any force used complies with constitutional mandates. City and PPB leaders must provide regular scrutiny of PPB's new public order team in several ways. First, they must adopt policies that ensure rigorous internal review of the new unit's standard operating procedures, tools, and munitions before they are implemented or deployed. Second, all uses of force at its deployments should be closely evaluated through PPB's chain-of-command and internal force review processes.

While PPB command staff should manage and supervise the new public order team, external oversight is essential. During this review, we learned that Independent Police Review investigations into RRT officers were hindered by a lack of direct access to PPB's reports and other documents. In November 2020, Portlanders voted overwhelmingly to replace Independent Police Review with a new police oversight entity. Once the new community oversight body has begun its operations, it should review all complaints of misconduct regarding the new public order team to determine if it will conduct or oversee the investigation. Further, that entity should, subject to existing law, have unfettered access to PPB

documents, reports, and materials, including all such records generated by the new team.

In addition, the public must not again be surprised by a PPB public order team's policies, tactics, practices, and munitions. Instead, the City should plan to introduce the new unit to the community using various approaches. Given the proliferation of existing police/community committees in Portland, we hesitate to suggest the creation of a public order policing committee, though one might be useful. Instead, the City might utilize its existing committees to educate the public about the training, policies, practices, and munitions of the new unit and receive community feedback.³⁶ The City might also create a Public Order Citizens' Academy for the same purpose, and regularly invite members of the public and the press to attend PPB's public order training in its Situation Village in PPB's Training Academy. We are not being proscriptive with these ideas, which are not a mandatory list. Instead, when we return in 180 days, we will expect to see a meaningful and creative effort, which could take a variety of forms, to be transparent with the community about the new public order team.

IM LLC's Assessment:

The City has taken preliminary steps towards implementing this Recommendation, but more work remains to be done. Regarding public transparency, the Phase One Report called upon the City to make a “meaningful and creative effort” to be transparent with the community about the new public order team, and its tools, training and philosophies. In the months that followed, this Recommendation was echoed and reinforced in various ways, including by community members at two meetings of the Portland Committee on Community Engaged Policing who called upon the City to share more information with the public, as well as press articles reflecting the same demand.

On June 13, 2024, the City heeded that call by hosting a press conference to begin introducing the new RRT. Speakers at the event included political leaders, like Mayor Ted Wheeler, as well as PPB Chief Bob Day, and leaders and line officers from the new RRT. The audience was largely composed of members of the press, who had an opportunity to interact with members of the new team, see some of the

PPE and tools it will be using, and ask thoughtful questions. The City has also shared with us emails with various community groups, including the ACLU, Oregon Justice Resource Council, and Disability Rights Oregon to attempt set up individual meetings to discuss the new RRT.

This was an auspicious—but preliminary—start. While press outreach is a necessary component of transparency with the public, it is not sufficient. We reiterate our guidance in the Phase One Report and encourage the City to continue its work to build awareness of the new RRT, including through the City’s various police/community committees, and further engagement with the press and stakeholder groups. Given heightened concerns about the possibility of significant protest activity connected to the November elections, this expanded outreach should be prioritized.

Regarding the need for greater internal scrutiny of the new RRT, the City’s self-assessment noted:

The Chief’s Office is committed to being engaged, aware, knowledgeable, and prepared to provide guidance and assert their role and authority, as appropriate, in public order events. When an incident occurs where CMIC is needed, the Chief’s Office activates the CMIC response. The Assistant Chief of Operations will serve as the coordinator and notify other members of the Chief’s Office. The Chief’s designee will be present at the pre-briefing as well as the debriefing. The designee will bring that information back to the Chief’s Office and provide a summary of the debrief to the other chiefs.³⁷

This is useful insofar as it goes. However, the Recommendation speaks specifically to the need for procedures that formalize such scrutiny. One useful example appears in the RRT Munitions Tracking SOP. It notes that “any discrepancies in munitions counts that cannot be attributed to training, destruction of expired munitions, or documented uses of force during a deployment will be outlined in a memo (through channels) to the Chief of Police.”³⁸ This requirement creates opportunities for

internal accountability, and PPB should consider other aspects of its procedures for the new RRT where other similar mechanisms for ensuring internal review and accountability can be enshrined.

Regarding the part of this Recommendation concerning external oversight of the RRT, the City provided no updates about how it will be implemented, nor is it clear since the ordinance and structures for the new oversight entity are still in flux. This part of the Recommendation should be prioritized when a new oversight entity has been formed and begins its operations.

Recommendation # 7: The City Must Continue to Improve Its Public Order Training Program Consistent with Recent National Tactical Officers Association Standards

Recent PPB public order training addressed many of the concerns identified in our review of pre-2020 training. The City should build on this success by ensuring that future training benefits from robust oversight, is consistent with recent National Tactical Officers Association standards, and addresses important topics, such as when force is authorized. In February 2023, we attended a two-day public order in-service training that PPB is providing to all sworn staff, regardless of rank and current assignment. The training covered, among other topics, crowd theory, field formations, the use of force, and mass arrest procedures. It combined classroom-based lectures, field exercises, and several interactive scenarios. A two-day training can only accomplish so much, but our overall assessment was positive.

PPB developed its 2023 training in partnership with representatives from the City Attorney's Office and reportedly sought feedback from the Portland Training Advisory Council, a group of community members responsible for evaluating PPB training and providing recommendations. This is a notable improvement, and PPB should revise its directives to require that the City Attorney's Office and the Training Advisory Council review all public order training before it is delivered to officers.

The 2023 in-service training addressed the importance of de-escalation and procedural justice, and provided clear guidance about when the use of certain types

of force were authorized and prohibited. The interactive scenarios offered opportunities for officers to apply these concepts in situations that ranged from relatively calm and not requiring the use of force to the more chaotic, with protesters blocking emergency vehicles or throwing projectiles at officers. PPB should ensure that all future training also addresses these topics in a similar manner.

As PPB continues training MFF officers and builds a new, specialized team, it should use the National Tactical Officers Association standards to determine the volume and content of the training. For MFF officers, this means 16 hours of initial training and 8 hours of refresher training a year that address, among other things, when force is authorized and prohibited, how force is reported, and a basic understanding of dispersal orders and arrest procedures. We understand that immediately meeting these standards given current staffing and budgetary constraints may be difficult. Rather than try to continually train all sworn staff to serve as MFF officers, an alternative option may be to identify a smaller group of MFF officers and provide them the 8 hours of annual refresher training.

For the new public order team, PPB should aim to fulfill the training standards associated with an advanced unit, including 40 hours of initial training and 8 hours of monthly refresher training. Again, immediately meeting these standards may be difficult. At a minimum, however, we recommend that PPB begin by meeting the training standards associated with intermediate public order teams, which is 30 hours of initial training and 32 hours of refresher training annually. We also recommend PPB create training specific to field supervisors and officers responsible for specialized functions, such as grenadiers and arrest teams, and over time, identify opportunities for MFF officers and officers from the new team to train together and with mutual aid partners.

IM LLC Assessment

PPB has taken significant steps to address this Recommendation, but some efforts are still in development and more work is required. PPB has subjected its recent public order training to robust oversight, and, while we expect this to continue,

suggest that PPB formally document in policy the role that the Office of City Attorney and Training Advisory Council will play in reviewing such training.

PPB policies already require Training Division preapproval for all RRT training and that the Training Division “regularly review lesson plans and training to ensure that they conform to Bureau policy at the time of training.”³⁹ This review process includes attention from relevant lieutenants, the Police Education Administrative Specialist, and an Equity Training Specialist. Nowhere in the policies that we assessed, however, did public order training material require review by the Office of the City Attorney or Training Advisory Council.⁴⁰ They should do so.

Regarding the amount of training, PPB appears on track to meet NTOA standards associated with the volume of initial and recurring public order training. PPB held two-day public order in-service training for all sworn staff in 2023 and is holding ongoing, additional training in 2024 in preparation for the November elections. New RRT members attended the Oregon State Police Public Order Basic Course in May 2024 to fulfill their initial training requirement, and PPB has committed to providing RRT members a minimum of 96 hours of training a year, generally held on the second Friday of each month.⁴¹ This is an important and commendable commitment by the City to provide sufficient resources for training.

Because most of the RRT training is yet to be held, it is harder for us to evaluate the content in relationship to our Recommendations and NTOA standards. We are optimistic, however, based on the training that we have seen and the materials for future sessions that we reviewed. The training held in June 2024 addressed, among other subjects, PPB’s general public order philosophy, RRT standard operating procedures, when the use of force is authorized and prohibited, and use of force reporting requirements. The training included classroom instruction and field exercises. The draft RRT training schedule we were provided describes additional training about the role of ELOs, the use of bicycles and body-worn cameras during public order events, and arrest procedures. In interviews with RRT trainers, we

learned about plans to provide training specific to grenadiers, Echo Squad, small arrest teams, and field supervisors.

While we expect PPB to follow through with these plans as described and successfully implement this Recommendation over the next year, we have several suggestions. First, with the potential for contentious and prolonged protests in November 2024, we suggest PPB prioritize public order training over the next several months whenever possible. Second, as RRT training progresses beyond the initial, foundational topics, PPB must emphasize the scenario-based training and iterative stress inoculation necessary to help officers de-escalate situations and keep cool in volatile public order environments. Third, if the City establishes mutual aid agreements that include specific public order support, we suggest scheduling routine training with those partner jurisdictions to provide RRT and its counterparts with experience working together in a controlled environment before they jointly deploy in the field.

Recommendation # 8: PPB Policy Should Require Chiefs to Be Engaged with and Visible to Officers in the Field During Public Order Deployments, When Possible

PPB's executives have already recognized that their relative lack of visibility in the field was not ideal in 2020 and have committed to change. PPB policy should also reflect this expectation. Current PPB Directive 0635.10, Portland Police Bureau Response to Public Order Events, includes the Bureau's overall policies for the handling of public order events. It includes discussions of the responsibilities of key leaders in the incident management team, including the incident commander and operations section chief. Yet its only substantive discussions of the roles of the Chief, Deputy Chief, and Assistant Chiefs of Police relate to delegations of authority or timelines for after-action reporting.⁴² While it would be impractical and foolish to attempt to entirely summarize their duties in this directive, it should include some discussion of the role that they will play during public order events, particularly their duties to engage with and be visible to officers in the field. This should include but not be limited to attending pre-

operational briefings, visiting with deployed officers, and debriefing after significant incidents that result in officer or community member injuries, when possible.

IM LLC Assessment:

PPB has taken preliminary steps to implement this Recommendation but has not yet formalized the role of chiefs during public order events in policy. In the City’s self-assessment, its sparse response noted only that “PPB leadership has already been present for multiple events and protests in 2023 and 2024. PPB will continue to follow Incident Command System (*sic*). The Chief’s Office has an active role in reviewing plans and, as noted above, the Chief’s Office will be present at pre-briefings and debriefings.”⁴³

This commitment is good insofar as it goes. However, the Recommendation was for the PPB to more clearly articulate this expanded role for chiefs in PPB policy, which the City has not yet done. While we are heartened and pleased that PPB chiefs have played a more active role in recent deployments, including at Portland State University, the role of the Chief’s office during public order deployments should be durable and last beyond any one chief’s administration. It should be reflected in formal PPB policy, which has not yet been done.

Recommendation # 9: PPB Should Prepare a Deep Bench of Leaders to Serve as Incident Commanders and Operations Section Chiefs

PPB did not have enough trained leaders to serve as incident commanders and operations section chiefs in 2020. To ensure operational readiness, it must prepare a deep bench with the requisite ICS training, command-level public order training, and actual experience to ably serve in those roles now and in the future. PPB is in the best position to determine the specific size of that bench. However, given the need to staff at least two, and possibly three, shifts per day for seven days per week, and the possibility of retirements or other separations, we believe that it would be prudent to have no less than 6, and possibly more, trained and experienced incident commanders and operations section chiefs at all times. Regardless of the size of that bench, all members must be required to train and drill with the new public order team to ensure familiarity with its strategies,

tactics, and tools, and to create the trust between the command post and the field that was sometimes lacking in 2020.

IM LLC Assessment:

PPB has largely satisfied this Recommendation, and its further implementation will be continuous and ongoing. PPB has identified and begun training enough leaders to have five Incident Commanders and Operations Section Chiefs, and has a goal of having at least one more of each. When achieved, this will fully satisfy the Recommendation.

After the Phase One Report was issued, PPB identified a group of approximately 30 leaders to serve as ICs and OSCs and committed to recurring meetings of that group with the CMIC Coordinator. We have examined agendas of these meetings, and they covered topics ranging from legal updates, the importance of dialogue policing, ICS training, capabilities of other units to assist during public order events, such as SERT and Field/Formal Arrest, after-action reviews from other cities in 2020, discussion of positions and roles, ICS principles, and building IMTs. While it is a useful list of topics, we note that the list of attendees fluctuated significantly from meeting-to-meeting, and attendance was irregular. While some command personnel attended many of the meetings, some attended only a few. We recommend that PPB find a time that works for everyone's schedule and make the meetings mandatory, not optional.

While five IMT teams is one fewer than we suggested, we trust PPB's assessment of its own bench at present. We encourage PPB to continue attempting to develop and identify leaders such that it has at least six, and possibly more, IMTs available as soon as possible, and to continue building the pipeline of leaders to ensure that capacity is not lost in the event of future separations and retirements from PPB.

Recommendation # 10: PPB Should Develop a Pre-Operational Briefing Checklist and Hold Supervisors Accountable for Providing Comprehensive Briefings to Officers Before Public Order Deployments

To ensure that all supervisors are providing clear, consistent information about the rules of engagement before public order deployments, PPB should develop a pre-

operational briefing checklist that all supervisors are required to use. It should include discussion of the relevant rules of engagement, policy standards for particular types of force, and reminders of the requirements to de-escalate, among other matters. Supervisors must be required to sign the checklists affirming that they have provided such briefings and the checklists should be collected at the end of every operational period.

IM LLC Assessment:

This Recommendation has mostly been completed, though we make an additional suggestion for refinement. PPB has created and adopted a Sergeant Squad Briefing/Debriefing Form modeled after the ICS 214B activity log. It includes fields to record general information about each deployment, such as the “Incident Name,” “Operational Period,” and “Start/End times.” It also includes a briefing checklist that requires supervisors to certify that they “covered the following during my briefing of those assigned to my unit.” Specifically, they must certify that they covered the “Incident Objectives,” the “Commander’s Intent,” “Priorities, Limitations and Constraints,” “Critical Information Requirements,” “Weather and Safety Issues,” “Work Assignment,” “Use of Force,” and to check that officers have “proper and functioning PPE,” and “understand their role in the mission.” It also includes a free text field for supervisors to include general briefing notes.

This form is largely satisfactory for squad/field-level briefings. However, collapsing all briefing associated with force matters under a single subheading, “use of force” is problematic, particularly given the issues uncovered regarding force used in 2020. On the current briefing form, “use of force” represents just one small entry on a much larger list. But priming officers to adhere to agency use of force policy during public order deployments, including the requirement to de-escalate (when possible), should be a key focus of the briefing process. We recommend that PPB expand the “use of force” category on the briefing form to ensure that all field supervisors are

covering essential requirements for uses of force in a public order context. This should include reminders to address the following:

- Authorized Force – Any use of force must be individualized and based on the threat posed to the safety of community members and officers, severity of the crime at issue, and resistance exhibited by that individual.
- De-escalation – Officers are required to take proactive steps to eliminate the immediacy of threats, minimize the need for force, and reduce force as the resistance they face diminishes.
- Prohibited Force – Officers are prohibited from using force against community members who are engaged in passive resistance that does not impede a lawful objective or who are expressing verbal discontent with officers but do not pose a threat.
- Restricted Force – PPB directives place various restrictions on officer use of certain less-lethal force options in public order settings, including kinetic impact projectiles, handheld chemical incapacitants, and tasers.

Recommendation # 11: PPB Should Formalize the Debriefing Process for Public Order Deployments

Debriefing is essential during public order deployments. PPB directives require the incident commander and individual supervisors to conduct debriefs after public order deployments but they provide little specificity about what that actually means.⁴⁴ The process and expected topics must be formalized to ensure that PPB maximizes the value of debriefing for its organizational learning. Policy should require debriefs to focus on whether or not each mission objective was achieved and if not, why not. They must require discussion of not only operational effectiveness; they must also address compliance with the use of force policy and related directives. The lessons learned from the debriefs should be encapsulated in a written document that feeds into future operational plans.

IM LLC Assessment:

This Recommendation has mostly been completed but we have suggestions for refinement. To implement the Recommendation, PPB created a debriefing checklist for field supervisors, developed a CMIC Debriefing SOP to formalize the debriefing

process lead by the CMIC, and a short guide for the “hot washes” conducted at the end of each operational period.

Regarding the debriefing checklist, it appears to be primarily a data collection instrument for aggregating information about relevant metrics (like number of arrests, injuries, and force types used), rather than a tool for thoughtful squad-level debriefing. It is a half-page document that requires field supervisors to certify that they “covered the following during my debriefing of those assigned to my unit.” Among the topics to be covered are injuries, arrests, and uses of force. If force was used, supervisors are required to note the type and number of uses of force, as well as whether they reviewed all force data collection reports, completed an after-action report, and a supplemental report. It also includes a free text field for “general notes from debrief.”

Our interviews with PPB leaders validated that the primary use of this form is to aggregate information about field operations. But squad-level debriefing should go beyond mere data collection. It should also address squad effectiveness at achieving mission objectives, any obstacles that interfered, and compliance with the use of force and public order directives. The debriefing checklist does not suggest that squad leaders will be required to debrief these matters at the end of operational periods, nor has PPB shared SOPs or directives that indicate it. PPB should revisit the debriefing checklist to include substantive content that will aid in squad-level learning from a day’s events, not merely collecting data about them.

PPB did share a more substantive CMIC Debriefing SOP, which covers recommended areas for debriefing by the CMIC. It requires, for example, the CMIC to “bring together operational supervisors, command and general staff from the Incident Management Team after an event or incident to identify lessons learned, areas of improvement and if the stated objectives were met. A written After-Action Review (AAR) should highlight the points noted during this meeting to improve future planning and actions for similar events.”⁴⁵ This is the kind of searching inquiry that can provide tremendous value after a public order deployment. However, it explicitly contemplates that debriefs that will occur as long as 10 days after “the end of the operation.” Thus, while the CMIC Debriefing SOP

undoubtedly charts a useful process of organizational learning, it does not ensure that debriefing will happen timely enough to ensure information gathered is mobilized in time during a multi-day event.

The City fills this gap through its “hot wash” process, which occurs at the end of each operational period. The City’s self-assessment noted “the hot wash or informal debriefing process for the Incident Commander (IC) has been bolstered and is now part of the Public Order Post Event Debrief Summary that the IC emails post-event to the Chief’s office, city attorney, other members of the CMIC program, and is a foundation for the formal AAR.”⁴⁶ The City provided that Public Order Post Event Debrief Summary, which formalizes the questions to be addressed in the hot wash process. It includes useful inquiries, such as an evaluation of each mission objective, whether or not it was met, an identification of the significant decision points during the event, as well as the “decisions, systems, and protocols” that resulted in the event outcome. It also requires the CMIC to “provide insight into areas where improvement can be made.” We believe that this hot wash process is useful and encourage the City to do more to formalize how it will work, who will lead, participate, and whose feedback will be obtained, by documenting these matters in an SOP.

Recommendation # 12: The City Should Produce a Detailed Self-Assessment in 180 Days Reflecting the Steps It Took to Implement These Recommendations

Finally, as indicated at the beginning of this report, the City has committed to implementing these recommendations, and we will return in 180 days to review its progress. To enhance transparency and to facilitate that follow up review, we recommend that in 180 days, the City produce a self-assessment reflecting the specific steps it took to implement these recommendations, its successes and challenges, any quantitative data reflecting its efforts and outcomes, and any other context that will be necessary for our use in evaluating the City’s progress.

IM LLC Assessment:

The City satisfactorily completed this Recommendation. On March 5, 2024, the City provided a self-assessment to IM LLC reflecting the steps taken to implement the

Recommendations. The document included a discussion of each of the Recommendations, an identification of progress made, and in some cases, discussion of obstacles to full implementation. The document was a useful primer on the City's efforts, though many of the discussions reflected preliminary work in progress rather than advanced or completed efforts. We are satisfied that the document, preliminary though it might have been, was an accurate reflection of the implementation efforts at the time it was produced.

Endnotes

- ¹ The term “tear gas” can also be used to refer to Oleoresin Capsicum aerosol that is dispersed in vapor or mist form.
- ² PPB defined Mobile Field Force as “[s]worn members, who are trained in basic crowd control tactics and techniques, organized into a squad and deployed to assist in the management of a crowd.” PPB Directive 0635.10 (effective Aug. 2017)
- ³ See Independent Monitor LLC’s Phase One Report for a more in-depth history of these events (available at: <https://efiles.portlandoregon.gov/record/16395232>).
- ⁴ PPB Directive 0635.10 § 7.4 (effective Jan. 2023).
- ⁵ PPB Directive 0635.10 § 14.1.6 (effective Jan. 2023).
- ⁶ PPB Directive 0635.10 § 9.3.4 (effective Jan. 2023).
- ⁷ PPB Directive 620.00 § 1.4.1 (effective Jan. 2024).
- ⁸ PPB Directive 620.00 § 4.2.1.5 (effective Jan. 2024).
- ⁹ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 3-4 (Mar. 5, 2024).
- ¹⁰ PPB Draft RRT Standard Operating Procedure 15 – Crowd Embedded Observation Team and Small Arrest Team.
- ¹¹ PPB Draft RRT Standard Operating Procedure 15 – Crowd Embedded Observation Team and Small Arrest Team § 2(a).
- ¹² PPB Directive 0660.00 (effective Mar. 2023) (“authorized members must be able to articulate reasonable grounds to collect, gather, and maintain intelligence on an individual(s), group(s), or organization(s) involved or potentially involved in criminal activity or activity that supports criminal conduct” and “reasonable grounds means reasonable suspicion. Reasonable suspicion is suspicion that is reasonable under the totality of the circumstances. It is less than probable cause and more than mere suspicion.”).
- ¹³ National Police Foundation, *Preparing for and Responding to Mass Demonstrations and Counter-Demonstrations in Portland, Oregon* (December 2020).
- ¹⁴ PPB Directive 0635.10 § 8.4.2.2.2 (effective Jan. 2023).
- ¹⁵ PPB directives use the “avoid the use of a higher level of force” phrase when discussing Conducted Electrical Weapons, or tasers, but officers are generally prohibited from using these for crowd management. PPB, Directive 1015.00 § 7.2.4 (effective Nov. 2022); PPB, Directive 0635.10 § 9.3.1 (effective Jan. 2023).
- ¹⁶ This addition does not need to be included in the PPB Use of Force Directive, which has recently been revised to focus on the Graham Standard rather than more detailed discussions about when specific types of force can be used. It could appear in the Public Order Directive near sections that provide additional, specific guidance about the use of tear gas, OC spray, and impact munitions. PPB Directive 0635.10 §§ 9.3.4, 9.5 (effective Jan. 2023).
- ¹⁷ PPB Directive 0635.10 § 9.7 (effective Jan. 2023).
- ¹⁸ PPB Directive 0635.10 § 5.6 (effective Jan. 2023).
- ¹⁹ PPB Directive 0635.10 § 14.1.5 (effective Jan. 2023).
- ²⁰ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 5 (Mar. 5, 2024).
- ²¹ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 5 (Mar. 5, 2024).
- ²² PPB Directive 0635.10 §§ 9.3, 9.4, 9.5 (effective Jan. 2023).

- ²³ PPB Directive 0635.10 § 14.5.4 (effective Jan. 2023).
- ²⁴ PPB Directive 0635.10 §§ 14.4.6, 14.4.6.1, 14.4.7 (effective Jan. 2023).
- ²⁵ Portland City Council, Resolution 37520 – Direct the Portland Police Bureau to Inventory its Crowd Control Tools (filed Dec. 1, 2020).
- ²⁶ PPB Directive 0910.00 §§ 5.11, 5.7 (effective Nov. 2022).
- ²⁷ PPB Directive 0910.00 §§ 5.5, 5.9 (effective Nov. 2022).
- ²⁸ PPB RRT Standard Operating Procedure 7 – Rapid Response Team Specialty Munitions (revised June 13, 2024).
- ²⁹ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 7 (Mar. 5, 2024).
- ³⁰ PPB Directive 910.00 §§ 3.1.3, 3.3 (effective Dec. 2023). Note that the reporting requirements for officers using deadly force, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object, are different and defined elsewhere PPB Directive 1010.10.
- ³¹ PPB Directive 910.00 §§ 4.1, 4.4, 4.5, 5.3 (effective Dec. 2023).
- ³² *United States v. City of Portland*, 12-cv-02265, Fifth Periodic Compliance Assessment Report (D. Or., Feb. 2, 2021).
- ³³ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 6 (Mar. 5, 2024).
- ³⁴ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 7 (Mar. 5, 2024).
- ³⁵ The Oregonian, *Police Clear Portland State Library of Protesters, Make Arrests; Small Group Returns to Re-establish Barricade*, available at <https://www.oregonlive.com/education/2024/05/police-move-to-end-portland-state-standoff.html#:~:text=Portland%20police%20took%20about%20four,sweep%20didn't%20last%20long>.
- ³⁶ The City has already received certain feedback from the Citizen Review Committee’s Crowd Control and Use of Force Workgroup, which the City should make attempts to integrate to the extent possible. See *Portland Protests 2020: Citizen Review Committee Summary and Recommendations*, CRC Crowd Control and Use of Force Workgroup, dated September 2021.
- ³⁷ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 9-10 (Mar. 5, 2024).
- ³⁸ PPB RRT Standard Operating Procedure 7 – Rapid Response Team Specialty Munitions at 4 (revised June 13, 2024).
- ³⁹ PPB RRT Standard Operating Procedure 10 – Training § 2(f) (revised June 13, 2024); PPB Directive 1500.00 § 8.1 (effective Aug. 2023).
- ⁴⁰ The PPB Training Directive does require the Training Advisory Council to provide recommendations about training as part of annual needs assessment and review of patterns and trends in officer use of force. Public order training would likely be addressed under this requirement. PPB Directive 1500.00 § 4.1 (effective Aug. 2023).
- ⁴¹ PPB RRT Standard Operating Procedure 10 – Training §§ 2(d-e) (revised June 13, 2024).
- ⁴² See PPB Directive 0635.10 (effective Aug. 2017).
- ⁴³ Portland Office of the City Attorney, *Self-Assessment in Response to Independent Monitor LLC Recommendations*, at 11-12 (Mar. 5, 2024).
- ⁴⁴ See PPB Directive 0635.10, Portland Police Bureau Response to Public Order Events § 16.1.18. (requiring that for extended crowd control events, the incident commander must complete an after-action review within 60 days of the conclusion of the event. Moreover, the incident commander should “hold a formal debrief of the event to discuss the overall plan, tactics, staffing and areas of improvement. The debrief should include key supervisory member participants in the event”). See

also Id. § 16.3.1 (requiring “the lead supervisor of each squad that took police action [to] conduct a debriefing of the incident with their personnel and document it in their police report.”).

⁴⁵ PPB Crowd Management Incident Commander Program Standard Operating Procedure 2 – Incident Debriefing (effective June 23, 2024).

⁴⁶ Portland Office of the City Attorney, Self-Assessment in Response to Independent Monitor LLC Recommendations, at 13 (Mar. 5, 2024).