

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

(Deliver original to Financial Planning Division. Retain copy.)

|   |   |   |   |
|---|---|---|---|
| 1. Name of Initiator<br>LaVonne Griffin-Valade                        |   | 2. Telephone No.<br>503-823-4078  | 3. Bureau/Office/Dept.<br>Auditor   |
| 4a. To be filed (date):<br><br>November 9, 2011                       | 4b. Calendar (Check One)<br><br>Regular    Consent    4/5ths<br>x <input type="checkbox"/> <input type="checkbox"/> |   | 4. Date Submitted to<br>Commissioner's<br>office and FPD<br>Budget Analyst:<br>November 9, 2011 |
| 6a. Financial Impact Section:<br>X Financial impact section completed |   | 6b. Public Involvement Section:<br>X Public involvement section completed |   |

**1) Legislation Title:**

Establish the authority for the Citizen Review Committee to make policy recommendations directly to the Portland Police Bureau, increase the length of term served by Citizen Review Committee members and clarify procedures of the Citizen Review Committee in hearing appeals from community and bureau members. (Ordinance; amend Code Chapters 3.21)

**2) Purpose of the Proposed Legislation:**

Establishing the authority for the Citizen Review Committee to make policy recommendations directly to the Portland Police Bureau will increase the public's trust through greater transparency. Increasing the length of the term of service for Committee members will improve the accountability process through increased efficiency of the Committee. Clarifying the procedures of the Citizen Review Committee in hearing appeals from community and Bureau members will lead to more effective handling of appeals.

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

- City-wide/Regional       Northeast               Northwest               North  
 Central Northeast       Southeast               Southwest               East  
 Central City  
 Internal City Government Services

**FINANCIAL IMPACT**

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

No, there is zero financial impact as a result of this legislation.

5) **Expense:** What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

None, there is zero financial impact as a result of this legislation.

6) **Staffing Requirements:**

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

No, there is zero financial impact as a result of this legislation.

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

No, there is zero financial impact as a result of this legislation.

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

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

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

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

**PUBLIC INVOLVEMENT**

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

**YES:** Please proceed to Question #9.

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

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

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

Establishing the authority for the Citizen Review Committee to make policy recommendations directly to the Portland Police Bureau will increase the public’s trust through greater transparency. Increasing the length of the term of service for Committee members will improve the accountability process through increased efficiency of the Committee. Clarifying the procedures of the Citizen Review Committee in hearing appeals from community and Bureau members will lead to more effective handling of appeals.

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

On March 31, 2010, Council voted unanimously to increase the oversight authority of the Auditor’s Independent Police Review (IPR) division and to increase the transparency of Portland’s police accountability process. As part of that change, Council also established a “Stakeholder Committee” consisting of members from various community organizations and representatives from City bureaus and Council members’ offices.

The Stakeholder Committee convened over several months and advanced 41 recommendations in a final report in September 2010. Council accepted the Stakeholder Committee’s report on December 1, 2010. At that time, the Mayor agreed to review the Stakeholder Committee’s recommendations, along with those made by the Citizen Review Committee (CRC), the Albina Ministerial Alliance, and others to determine whether further changes to IPR’s ordinance should be brought back to Council for consideration.

CRC released a report on the structure of IPR with recommendations in June 2010, and they also recently forwarded a memo to the Mayor outlining their priorities for further change. The Albina Ministerial Alliance has also provided the Mayor with a list of desired changes. The Auditor’s and IPR Director’s responses to those additional recommendations are attached, along with the Auditor’s November 2010 Response to the September 2010 report from the Stakeholder Committee.

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

The City Auditor and Independent Police Review Division director have carefully reviewed and weighed the recommendations from the reports noted above, and we are prepared to move forward with the attached draft ordinance and Code revisions.

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


The Mayor, City Council, City Auditor, Independent Police Review Division director, Chair and members of the Citizen Review Committee.

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

Mary-Beth Baptista, Independent Police Review Director. 503-823-0901  
[Mary-Beth.Baptista@portlandoregon.gov](mailto:Mary-Beth.Baptista@portlandoregon.gov)

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

No. The City Auditor and Independent Police Review Division director have carefully reviewed and weighed the recommendations from the reports noted above, and we are prepared to move forward with the attached draft ordinance and Code revisions.

LaVonne Griffin-Valade   
BUREAU DIRECTOR (Typed name and signature)

12-14-11

185076



Mayor Sam Adams  
City of Portland

**MEMORANDUM****Date:** December 9, 2011**To:** Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman  
Commissioner Nick Fish  
Auditor LaVonne Griffin-Valade**From:** Mayor Sam Adams**CC:** Chief of Police Michael Reese  
Mary-Beth Baptista**Re:** Auditor's Independent Police Review (IPR) Division Ordinance: Proposed Amendments to the Draft Code Changes and Citizen Review Committee (CRC) Protocols

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Over the past four weeks, City Council has held three public hearings on the Portland Police Bureau's (PPB) Report on Recommendations Regarding the PPB and an Ordinance submitted by the City Auditor that provides the draft code and city Ordinance revisions relating to the Auditor's Independent Police Review (IPR) Division.

Based on public testimony and conversations with the City Auditor, IPR Director, and City Attorney, I would like to submit four amendments to Exhibit A of the above-mentioned Ordinance package. The amendments and their rationale are listed below – my amendments are included in blue.

**Amendment 1**

3.21.070.B

Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type **and as well as** the frequency, consistency, and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source



necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.

**Rationale**

This is a clerical change to enhance clarity.

**Amendment 2**

3.21.090.A.3

~~Recommend policy changes. To help the Director identify specific evaluate complaint, and other information investigative practices, and other information in order to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems, and to participate in the development of policy recommendations.~~

**Rationale**

This amendment makes two changes. The first is a clerical change to enhance clarity – “To evaluate complaint, investigative practices, and other information in order to...” The second change makes explicit what is already in practice – that the Citizen Review Committee (CRC) make policy recommendations to the City Council. While any individual or group may make policy recommendations to City Council, stating that this is an expected function of the CRC clarifies the CRC’s role in the oversight of our systems of accountability.

**Amendment 3**

3.21.160.B

In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or other officers involved or any other citizen. The complainant or member may appear with counsel. When the Committee’s review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.

**Rationale**

This change ensures the allowance for the CRC to review any information provided to them through the Committee’s review process, while maintaining a distinction between the Committee’s role in reviewing the process of an investigation and the City employees’ role in conducting the investigation. This

language clarifies that the CRC is not able to contribute new evidence to investigation.

**Amendment 4**

3.21.160.C

In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, ~~and~~ any documents accumulated during the investigation, [the recording of the Committee's case file review and appeal hearing, the Committee's Case File Review Worksheet](#), and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.

**Rationale**

This change ensures that all information that is part of the "record of review" from the CRC's review of an investigation is available to City Council in its own review. To ensure that City Council is presented with a complete record of the information gathered during CRC's review of an investigation, in addition to the evidence produced by the investigation itself, I believe this addition to the City Code is necessary.

Additionally, during the exploration of these issues, I became aware that the CRC's ability to provide feedback on allegations to the City employees who are responsible for determining allegations is neither codified nor written into CRC protocols. While this feedback loop exists in current practice, I want to ensure that it is a protected and permanent function of the CRC. Fortunately, it is within the authority of the CRC to change its protocols, with City Auditor approval, to include language on its Case File Review Worksheet pertaining to the proper identification and classification of allegations. Auditor Griffin-Valade has assured me that she would work with CRC to approve an appropriate change to the protocol. I will work with the Auditor and the IPR Director to encourage CRC to pursue this. Such a change would provide stability and permanence to an important function of the CRC.

Auditor Griffin-Valade and IPR Director Mary-Beth Baptista have worked diligently to respond to the many community recommendations relating to Portland's system of Police oversight and accountability. The Ordinance put forth by the Auditor makes substantial positive changes to this system. I am thankful for your willingness to consider these amendments to those changes and for your commitment to continuous improvement of this important function of the City.



CITY OF PORTLAND



Office of City Auditor LaVonne Griffin-Valade



**Independent Police Review**  
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phone: (503) 823-4078  
web: [www.portlandoregon.gov/auditor](http://www.portlandoregon.gov/auditor)

185076

Date: November 22, 2011  
To: Mayor Sam Adams  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman  
From: LaVonne Griffin-Valade, Portland City Auditor  
Mary-Beth Baptista, Independent Police Review Director  
Subject: Proposed Amendment to City Code Revisions

On November 16, 2011, at 2:00 p.m. during the afternoon discussion of public safety recommendations, a community member made a recommendation regarding the Auditor's proposed City Code changes. After further review and discussion with the Chair of the Citizen Review Committee, the Auditor and IPR director are proposing an amendment to the revisions submitted.

Specifically, the amendment pertains to 3.21.160(A)(1)(a) Hearing Appeals. Language has been added (highlighted below) that explicitly provides the Citizen Review Committee the option of recommending further investigation by either IA or IPR at an appeal hearing.

**3.21.160 Hearing Appeals.**

- A. An Appeal h~~Hearings may~~ shall be conducted ~~either at the following points: after a majority vote of the Committee to hold such a hearing at the case file review or other meeting of the full Committee.~~
- 1. ~~When a complainant or member appeals the finding~~ At the Appeal Hearing the Committee shall decide by majority vote:
  - a. To recommend further investigation by IAD or IPR; or
  - b. If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's recommended findings are supported by the evidence, F



~~the Director shall inform the complainant, member, IAD and the Chief of the Committee's decision and close the complaint; or~~

**b.c.**

~~If the finding is not supported by the evidence. The Committee shall inform the complainant, member, IAD and the Chief of what finding should have been made. The Director shall schedule a hearing before Council for final disposition. The Committee shall select one of its members to represent the Committee's viewpoint before Council. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's recommended findings by determining that one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall formally advise the Bureau in writing of the Committee recommendation.~~

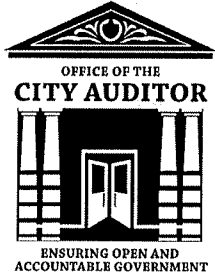
(1) If the Bureau accepts the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall close the case.

(2) If the Bureau does not accept the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall schedule the case for a conference hearing.

(a) At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the recommended findings, the Director shall close the case.

(b) If, by majority vote, the Committee can not reach an agreement with the Bureau on the recommended findings, the Committee shall vote whether to present the appeal to City Council.

(c) If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

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MEMORANDUM

Date: November 8, 2010

To: Police Oversight Stakeholder Committee

From: LaVonne Griffin-Valade, City Auditor *L. Griffin-Valade*

Subject: Response to September 21, 2010 final report from the Stakeholder Committee

I appreciate the opportunity to respond to the recommendations put forward by the Police Oversight Stakeholder Committee in its final report. Recommendations and my responses are listed below. In most cases, I have included only the summary recommendation as presented in the Committee's report. It may be helpful for readers to refer to the Committee's full report when reviewing my responses.

I want to acknowledge the commitment and dedication of the individuals and groups actively involved in strengthening police oversight in our community, including the Police Oversight Stakeholder Committee. I want to also extend my appreciation for the ongoing work of the Citizen Review Committee (CRC), the volunteer body that advises and monitors the Auditor's Independent Police Review division and hears appeals of complaint decisions.

RECOMMENDATIONS & RESPONSES

I. IPR authority & structure

**A. Repair community distrust of use-of-force investigations (up to and including shootings and in-custody deaths).** I agree. I have undertaken such efforts over the past eighteen months and will continue to do so. For example, the March 2010 changes to the ordinance authorizing the work of the Auditor's Independent Police Review (IPR) division in my office, as well as the changes to the Police Review Board, strengthened the civilian oversight role of IPR considerably. In addition, IPR's community outreach function expanded greatly through the hiring of a coordinator. As a result, IPR now has a more effective and positive link to the community.

**B. Ensure that IPR investigations include specified more serious complaints.** I agree. However, decisions regarding any investigations conducted by IPR will be made on a case-by-case basis and will be subject to available staff resources and to budget constraints.

**C. Ensure that IPR has, and exercises, the power to conduct or participate in investigations (from time zero) of specified serious incidents...including police shootings, deaths in custody, and other serious injury incidents...** I agree. This is largely current practice in IPR. Regarding IPR's participation in investigations of officer-involved shootings and in-custody deaths, we are currently developing a process to participate "from time zero" in the investigations of any such future incidents involving Portland Police Bureau members.

**D. Ensure that IPR has the authority to compel officer testimony and directly interview police officers in administrative investigations.** I do not disagree, but this matter is up to Council and subject to collective bargaining.

**E. Ensure investigations conducted by IPR or IAD and reviews by CRC can proceed in a manner that is consistently and objectively independent.** I agree. As the independently elected Auditor, I am responsible to the public and to the Police Bureau for ensuring a high level of consistency, objectivity, and neutrality in the investigations IPR conducts, the audits of the Audit Services Division in my office, and any other review of the Police Bureau conducted under my authority.

**F. Make it easier for the Auditor to hire outside counsel at the Auditor's discretion.** I agree that the City Auditor needs the authority to hire outside legal counsel where potential conflicts of interest exist. The responsibilities of the Auditor's Office were established as part of the City Charter and through the mutual agreement of Council and the Auditor. This allows for independence regarding the management and operations of those accountability programs and divisions in the Auditor's portfolio. Some decisions made by the Auditor directly or through the various oversight functions within the Auditor's Office, are in conflict with the decisions made by other City bureaus also represented by the City Attorney's Office. My position on this matter should not be viewed as a criticism of the City Attorney's Office. However, from my perspective, instances of actual or perceived conflict of interest have occurred, and I plan to ask the Charter Review Commission to take up the issue when they convene in 2011.

**G. Require that IPR investigate or actively participate in the investigation of all complaints of those with the rank of captain or higher.** I agree that IPR should actively participate in investigations of sworn Police Bureau members at the rank of captain or higher, and such participation is current practice. Decisions to investigate any sworn Police Bureau members of any rank must be made on a case-by-case basis and must be subject to available resources.

**H. Diversify the pool of investigators at both IPR and IAD...** I agree, and as future opportunities become available, I will make every effort to ensure that the pool of investigators at IPR is demographically diverse and from diverse experiences.

**I. Ask every complainant if they would prefer to have IPR or IAD investigate their complaint and document the response.** I disagree. Doing so would not contribute to the neutral, objective tone that IPR is responsible for establishing and maintaining with complainants and with the Police Bureau throughout the complaint intake, review, and decision-making process.

**J. If complainant opinions support doing so, increase investigative resources at IPR.** I do not disagree. However, there may be many reasons for increasing investigative resources at IPR, including greater workload demands, diversifying the workforce, and adding staff with specialized skills and training. Any effort to increase investigative resources is subject to funding approval by Council.

**K. Formalize/mandate what is current practice to not use mediation in serious use-of-force cases.** I agree. I have directed IPR to confer with other jurisdictions on this matter and to develop language that formalizes current practice.

## II. CRC and Council oversight authority/structure

**A. Change the definition of "supported by the evidence" as that term is used in Portland City Code 3.21.160 Hearing Appeals. The definition should change from the "reasonable person" standard ...to a "preponderance of the evidence" standard...** I disagree. The "preponderance of the evidence" standard is used by those responsible for deciding whether it is more likely than not that a complainant's allegations are true based on the facts of a case. In our system, the commander and voting members of the Police Review Board (PRB) are the fact finders, and they determine whether that standard has been met and make a recommendation to the Chief of Police.

The purpose of an appeal is to allow a complainant or Police Bureau member to challenge fact finder recommendations. The role of the CRC in an appeal hearing is to assess whether or not recommendations made to the Chief were reasonable. It is not the role or responsibility of CRC to make independent judgments regarding the facts of the case or the efficacy of allegations. Rather,

the role of CRC is to determine whether the fact finders acted reasonably in making recommendations. Therefore, the "reasonable person" standard is the appropriate standard.

**B. Give CRC the authority/permission to make policy recommendations directly to PPB.**

I agree.

**C. Increase the length of term for CRC members from two years to three years.** I agree.

**D. Ensure CRC may hold hearings on all appeals requested by complainants or Bureau members. Ensure that CRC may conduct hearings on all appeals within its purview without delays associated with concerns that the outcome of their review could have an impact on a civil claim against the City.** I agree, and this is current practice.

**E. Clarify CRC authority to present directly to Council.** I agree.

**F. Permit CRC to compel testimony.** I disagree. The appeal of a Police Bureau decision is not an opportunity to re-investigate a case. Rather, CRC has the authority to assess the quality and appropriateness of the Police Bureau's decision on a complainant's allegations and recommend that the Chief of Police or City Council take an alternative action. Further, there is no requirement for anyone to attend or participate in an appeal, including the complainant, and there is no sanction for not testifying in such instances.

**G. If the CRC is not given authority to compel testimony, then grant City Council the power to hear new evidence.** I disagree. City Council's role is to provide the final avenue for an appellant. It would be counter to Council's role to hear new evidence that was unavailable to the commander or Police Review Board during the finding of facts. Further, it would not be appropriate for Council to hear new evidence that also was not available to CRC during its review of fact finder recommendations in an appeal hearing.

**H. Increase the size of CRC.** CRC members recently discussed this issue at length and the consensus opinion was not to increase the size of this body, citing concerns about the practicality of doing so. As such, I will defer to the judgment of CRC.

**I. Allow CRC to review proposed allegations prior to investigation.** I disagree. One of CRC's roles is to review IPR's case handling process and raise potential policy or procedural issues identified in that review. However, it is not CRC's role to make case handling decisions or factual determinations on individual cases. Allegations are formed based on the facts of the case. Allegations are also fluid and may change over the course of an investigation as more facts come to light.

In addition, the workload for these volunteers is considerable, and timeliness of completing investigations, already an issue for the civilian oversight system, would be further impacted by the need to accommodate CRC members' schedules.

**J. Increase CRC authority to act on dismissed complaints, "service improvement opportunities," and formulation of allegations.** I disagree. IPR already has an internal process in place to provide complainants with an avenue for reconsideration of dismissals.

Also, in addition to reviewing IPR's case handling process, it is CRC's role to monitor and advise IPR, and as such, CRC established the recurring audit work group. That work group is currently conducting a review of closed service improvement opportunities and will release its assessment and recommendations to the public in the coming months. Once that report is issued, the recurring audit work group plans to review IPR's dismissal decisions and again release its assessment and recommendations.

**K. Establish an avenue for appeal or reconsideration for cases involving quality-of-service or minor rule violations.** I disagree. Again, this is not the role of CRC for those reasons outlined in responses to I. and J. above.

**L. Provide dedicated staff to support the CRC.** I disagree. IPR currently provides CRC with extensive support including the following: the analyst on staff assists a number of work groups with data collection and analysis; the outreach coordinator assists the outreach work group and works with CRC members on a variety of projects; the Director and Assistant Director assist multiple work groups; and two administrative support staff, one of whom is the CRC's designated point person at IPR, assist CRC members on an ongoing basis.



In addition, I would not be able to hold a "direct staff person assigned to the Committee" accountable for his/her performance, and that is unacceptable. Finally, no other City commission, committee, or board is given the budget or supervisory authority to hire and direct the work of City employees.

### III. Openness, usefulness, and speed of reporting

**A. Develop categories of findings regarding the specific allegation that includes four categories, instead of the current three.** I do not disagree, but this is a matter for the Police Bureau to address.

**B. Ensure that findings indicate a separate ruling regarding the overall incident that would identify the presence of any *policy-related issues* as that term is defined in Portland City Code.** I do not disagree, but this is a matter for the Police Bureau to address.

**C. Replace the term "service improvement opportunity" with the term "non-disciplinary complaint."** I do not disagree, but this is a matter for the Police Bureau to address.

**D. Ask opinion on complaint-handling preference.** I disagree. IPR management must base case handling decisions solely on the facts in any given case. Asking a complainant his or her preference on how their case is handled would interfere with IPR's responsibility to make neutral and independent decisions.

**E. Make it easier for complainants to get publicly available records. Direct IPR and PPB to establish an interagency agreement that would allow the Director discretion to release case-specific records...** I disagree, and as the elected Auditor in charge of IPR, I would not be willing to authorize or sign an interagency agreement allowing the Director to release any Police Bureau records. Case-specific records that are generated by and/or are the custodial property and responsibility of the Police Bureau can only be released by the Police Bureau. It would be inappropriate for the Auditor or any staff employed by the Auditor to release any documents made available to them by the Police Bureau during the course of a review, audit, or other analysis.

**F. Make certain CRC review documents available to the public.** I disagree. Generally, items reviewed by CRC are either Police Bureau documents or IPR case files containing complainant information, correspondence, or Police Bureau generated materials. IPR and CRC are not at liberty to release these confidential records, and as discussed above, Police Bureau documents are the custodial property and responsibility of the Police Bureau, even while being reviewed by CRC.

**G. Required reporting on reasons for long investigations.** I agree. IPR is currently developing a process for this.

**H. Make certain task forces public.** I agree. High levels of transparency strengthen accountability and improve public perception.

**I. Mandate investigative resource levels.** I agree as long as this is not an unfunded mandate.

**J. Require prompt explanation for decisions that differ from the Police Review Board's recommendations.** I agree, but this is a matter for the Police Bureau to address.

**K. Require more specific reporting on the relationship between sustained findings and discipline.** I will consider reporting on this in future reports. However, this matter should not be a requirement placed in the ordinance since decisions about the scope and content of any report released by the Auditor's Office are at my discretion and are based on a number of factors.

**L. Report on aspects of the "mitigation" process.** I do not disagree, but this is a matter for the Police Bureau to address.

**M. Order another expert review in 2012.** I have already committed to an independent review of the revised Police Review Board processes one year after implementation and barring budget constraints.

**N. Hold another stakeholder review.** I do not disagree, but Council will need to be prepared to fund facilitation of such a review.

### IV. Police Review Board structure/process

**A. Do not permit the supervising RU (Resource Unit) commander to vote as a member of the Police Review Board (PRB) in specific situations.** I disagree. I support the view of Police

Bureau command staff and the Commissioner-in-Charge that as the direct supervisor, the RU commander's participation on a PRB creates greater accountability and transparency regarding the RU commander's performance as a supervisor. Further, IPR managers are active participants in investigations and are now voting members during PRB sessions. Any concerns they observe regarding the participation of RU commanders or any other voting member on a PRB will be reported to the Auditor and brought before Council for further revisions of PRB processes if needed.

**B. Add another citizen member to PRB for use-of-force incidents.** I do not disagree, but this is a matter for the Police Bureau to address.

V. Complaint-driven PPB policy improvement process

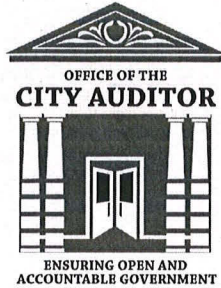
**A. IPR & CRC to be provided drafts of certain policy-change decisions.** I agree; however, this is a matter for the Police Bureau to address.

VI. Non-complaint-driven PPB improvement process

**A. Request that the Auditor's Office provide regular reports on the status of the Bureau's Employee Information System and on independent analysis of police stop data.** I agree. IPR is in the process of doing this.

cc: Mayor Adams  
Commissioner Leonard  
Commissioner Saltzman  
Commissioner Fish  
Commissioner Fritz

# CITY OF PORTLAND



Office of City Auditor LaVonne Griffin-Valade



## Independent Police Review

Mary-Beth Baptista, Director  
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Portland, OR 97204  
phone: (503) 823-4078

web: [www.portlandoregon.gov/auditor](http://www.portlandoregon.gov/auditor)

Date: November 7, 2011

To: Mayor Sam Adams  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman

From: LaVonne Griffin-Valade, Portland City Auditor  
Mary-Beth Baptista, Independent Police Review Director

Subject: Draft Ordinance and City Code Revisions

On March 31, 2010, Council voted unanimously to increase the oversight authority of the Auditor's Independent Police Review (IPR) division and to increase the transparency of Portland's police accountability process. As part of that change, Council also established a "Stakeholder Committee" consisting of members from various community organizations and representatives from City bureaus and Council members' offices.

The Stakeholder Committee convened over several months and advanced 41 recommendations in a final report in September 2010. Council accepted the Stakeholder Committee's report on December 1, 2010. At that time, the Mayor agreed to review the Stakeholder Committee's recommendations, along with those made by the Citizen Review Committee (CRC), the Albina Ministerial Alliance, and others to determine whether further changes to IPR's ordinance should be brought back to Council for consideration.

CRC released a report on the structure of IPR with recommendations in June 2010, and they also recently forwarded a memo to the Mayor outlining their priorities for further change. The Albina Ministerial Alliance has also provided the Mayor with a list of desired changes. The Auditor's and IPR Director's responses to those additional recommendations are attached, along with the Auditor's November 2010 Response to the September 2010 report from the Stakeholder Committee.

We have carefully reviewed and weighed the recommendations from the reports noted above, and we are prepared to move forward with the attached draft ordinance and Code revisions. We will present these for Council approval on November 16, 2011 at 2:00 p.m. during the scheduled discussion of public safety recommendations.



## CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

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### Memorandum

Date: October 5, 2011

To: Mayor Sam Adams

From: Portland City Auditor LaVonne Griffin-Valade  
 Independent Police Review (IPR) Director Mary-Beth Baptista

Subject: Auditor / IPR Response to Draft Memo on Citizen Review Committee (CRC) Priorities recommended to City Council

#### PRIORITY 1

Stakeholder Report Section II.A: Change the definition of "supported by the evidence" as that term is used in *Portland City Code 3.21.160 Hearing Appeals*.

- Auditor Disagrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### PRIORITY 2

Stakeholder Report Section II.B: Give CRC the authority/permission to make policy recommendations directly to PPB.

- Auditor and Police Bureau Agree: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee and Bureau of Police Response to final report from the Stakeholder Committee dated September 21, 2010.

#### PRIORITY 3

Stakeholder Report Section II.C: Increase the length of term for CRC members from two to three years.

- Auditor Agrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### PRIORITY 4

Stakeholder Report Section II.E: Clarify CRC authority to present directly to Council.



- Auditor Agrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### **PRIORITY 5**

Stakeholder Report Section II.F: (Permit CRC to compel testimony) & G (If CRC is not given the authority to compel testimony, then grant City Council the power to hear new evidence.) and revise the City Ordinance on Appeals section 3.21.160.A.1.b.

- Auditor Disagrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.
- Auditor Agrees: Section 3.21.160.A.1.b must be revised to conform to current practice.

#### **PRIORITY 6**

Stakeholder Report Section II.L: Provide dedicated staff support to the CRC.

- Auditor Disagrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### **PRIORITY 7**

Stakeholder Report Section III.A: Develop categories of findings regarding the specific allegation that includes four categories, instead of the current three.

- Auditor No Position / Bureau Recommendation: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### **PRIORITY 8**

Stakeholder Report Section III.E: Make it easier for complainants to get publicly available records.

- Auditor Disagrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

#### **PRIORITY 9**

Stakeholder Report Section III.J.: Require prompt explanation for decisions that differ from the Police Review Board's recommendations.

- Auditor Agrees / Bureau Recommendation: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.



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### Memorandum

Date: October 7, 2011

To: Mayor Sam Adams

From: Portland City Auditor LaVonne Griffin-Valade  
 Independent Police Review (IPR) Director Mary-Beth Baptista

Subject: The Portland City Auditor's Independent Police Review's (IPR) Response to "Citizen Review Committee (CRC) Report on the Structure of the Independent Police Review Division – With Recommendations."

The IPR Structure Review Workgroup defined *six primary focus areas* to be addressed.

1. Complaint Process
2. Policy Development
3. Staffing and Training Issues
4. Outreach
5. Transparency
6. Mediation Policy and Procedures

### Recommendations

#### OF NOTE:

**WHEN DESIGNATED AS EITHER CRC OR IPR "POWERS AND DUTIES" – THAT RECOMMENDATION REQUIRES AN ORDINANCE CHANGE.**

#### 1. Complaint Process

- Establish guidelines to require IPR to conduct an independent investigation in certain types of cases (IPR powers and duties; Internal Affairs (IA) protocols and procedures; IPR guidelines).
  - Auditor / IPR: Disagree. Decisions regarding any investigation conducted by IPR will be made on a case-by-case basis considering the underlying facts of the

case; parties involved, and will be subject to available staff resources and expertise.

- Require Portland Police Bureau (Police Bureau) officers to cooperate with IPR investigations (IA protocols and procedures; labor contract change).
  - DUPLICATE RECOMMENDATION: Stakeholder Report: I.D. Police Bureau: Disagree. (Bureau of Police Response to final report from the Stakeholder Committee dated September 21, 2010.
- Strengthen IPR's ability to do independent investigations by giving IPR subpoena power (IPR powers and duties).
  - **Completed / Current Authority. Portland City Code (PCC) 3.21.210 Subpoenas**
- Explain IPR's involvement in the review of IA investigations (IPR action: Policy/Practice).
  - **Current / on-going practice. Monthly IPR Director Report, IPR Quarterly Report, and IPR Annual Report.**
- Give IPR the same authority in bureau-initiated cases that it has in citizen-initiated cases (IPR powers and duties).
  - **Completed / Current Authority. PCC 3.21.120 Handling Complaints**
    - **PCC 3.21.120.B.2: Complaint Type II** (A complaint about alleged member misconduct that does not involve a community member – i.e. a Bureau Complaint)
    - **PCC 3.21.120.D.1-4: Initial Handling and Investigation of Type II Complaints** (Sets forth the same case handling authority in "Bureau Complaints" as "Citizen-initiated" cases.)
- Review duties and responsibilities of the Appeals Process Advisor (APA) to fulfill its requirement to advise complainants and strengthen the input for this role (CRC action).
  - **Completed. Public Safety Policies and Administrative Rules (PSF) 5.21 IPR – CRC Appeals Process Advisor – Amended and Adopted on August 10, 2011.**
- Determine if an outside agency should be permitted and / or provided to advocate on behalf of complainants at an appeal (CRC action).
  - **Completed: National Lawyers Guild (NLG) began assisting appellants in January 2010. In January 2011, IPR created a standard operating procedure (SOP) for handling appeals that includes an agreed upon IPR / CRC process to connect volunteers from the NLG with CRC appellants.**
- Change the standard of review for appeals from "Reasonable Person" Standard to "Preponderance of the Evidence Standard" (CRC appeals procedures protocol and powers and duties).
  - DUPLICATE RECOMMENDATION: Stakeholder Report: II.A. Auditor: Disagree. (Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)

- Monitor and report to the Citizen Review Committee cases that have not been appealed, but illustrate questionable police responses or possible policy, supervision, or training failures (IPR and IA protocols and procedures).
  - **Completed / Current Practice. EXAMPLE: August 10, 2011 CRC Meeting – Discussion of the Lindsay Hunt Case.**
- Return to the findings *unfounded, insufficient evidence, exonerated, and sustained*, and add three new findings of *“policy failure, training failure, and supervisory failure.”* [Portland Police Bureau policy change; protocols and procedures]
  - DUPLICATE RECOMMENDATION: Stakeholder Report: III.A & B  
Police Bureau: Disagree. (Bureau of Police Response to final report from the Stakeholder Committee dated September 21, 2010.)
- Evaluate the possibility of a protest process for non-investigated complaints, IPR dismissals, Service Improvement Opportunities (SIO) [formerly known as Service Complaints], and / or IA declines (IA protocols and procedures).
  - **Partially completed / On-going.**
    - **Completed – SIO evaluation. CRC Recurring Audit Workgroup reviewed a sample of SIOs and found that these complaints are being handled appropriately. In November 2010, the workgroup released “The Use of Service Improvement Opportunities: A Report by the Recurring Audit Workgroup” stating their findings with recommendations.**
    - **Initiated / On-going evaluation - IPR Dismissals. CRC Recurring Audit Workgroup is currently reviewing a sample of IPR dismissals and will release a report with their findings and recommendations in 2012.**
- Establish an effective review process for the formulation of allegations (IPR protocols and procedures).
  - (Partial) DUPLICATE RECOMMENDATION: Stakeholder Report: II.I & J  
Auditor: Disagree. (Auditor’s November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)
    - Of Note: Beginning January 1, 2011, IPR management and IA made significant changes to the allegation formation process and the allegations listed in the Administrative Investigations Management Program (AIM) database. IPR management has encouraged CRC Recurring Audit Workgroup to review a sample of IPR / IA investigations to determine what, if any, further recommendations for improvement are necessary.
- Establish a deadline for processing complaints and clarify ambiguities in case handling-timelines (IPR action).
  - **Initiated / On-going. On January 1, 2011, IPR / IA launched significant changes in case tracking and reporting in the shared AIM database. In July 2011, IPR published “Timeliness of Administrative Investigations: A Case Flow and Timeliness Analysis.” IPR and IA will revise protocols and a directive regarding timelines based on follow-up analysis after the improved reporting system has been in place for an adequate period of time.**



- Review the frequency, timeliness, and adequacy of notices sent to complainants by IPR and audit the process to ensure it is done appropriately (IPR and IA protocols and procedures).
  - **Completed / On-going:** In 2009 and 2010, IPR management revised multiple notifications to better explain the process. In 2011, IPR revised same / additional notifications to clearly reflect IPR's enhanced role in the process. IPR will continue to revise notifications to keep up with changes in the appeal process and other protocol and process changes. IPR management staff has encouraged the CRC Recurring Audit Workgroup to include review of correspondence in its final analysis on dismissals and investigations.
- Base the sustain rate as a proportion of all complaints (Police Bureau directive change; IPR action).
  - *Auditor / IPR: Disagree. A change in the calculation would lead to a less accurate figure. IPR annually reports the number of investigations completed in a given year and the percentage of those completed investigations that included sustained findings. Important note: many investigations completed in a given year, were initiated in the year prior. Because of the amount of "spill over" from year to year, there is no clean way of stating the number of sustained investigations "as a proportion of all complaints."*
- Monitor complaints against specific officers who achieve or exceed five complaints in one year and officers who receive or exceed three complaints in a six-month period. Follow-up with Police Bureau supervisors who talk with the officer(s) and develop strategies to correct the problem(s) (IPR action).
  - **Current Practice.** Assistant Director Severe monitored two officers with a specialty assignment that received multiple complaints in a period of six months and followed up their Supervisors to strategize how to change the behavior in late 2009. Director Baptista monitored one officer that received multiple complaints in a six month period of time and worked with his supervisor to correct the problem in early 2011. Due to confidentiality we can not state the names of the officers.

## 2. Policy Development Protocol

- Create a policy review committee to identify and analyze policy issues, and include outreach to stakeholders and experts (CRC action; workgroup protocol).
  - **Completed / On-going.** In 2010, CRC re-instated the Outreach Workgroup and established the Recurring Audit Workgroup. CRC plans to revive the Protocol Workgroup when further changes are agreed upon by City Council (Council) / Auditor and IPR / CRC after the Stakeholder and other reports have been formally addressed.
- Recommend to Council that the Ordinance defining the powers and duties of CRC be changed to state that CRC may make policy recommendations directly to the Police Bureau. **(CRC power and Duties)**
  - **DUPLICATE RECOMMENDATION: Stakeholder Report: II.B**  
Auditor and Police Bureau: Agree. *(Auditor's November 8, 2010 Response to*

*September 21, 2010 final report from the Stakeholder Committee and Bureau of Police Response to final report from the Stakeholder Committee dated September 21, 2010.)*

- Hold public hearings on policy recommendations (IPR protocol).
  - **Auditor / IPR: Agree. Auditor and IPR will support a protocol change to allow public input as long as protocol maintains Audit Standards.**
- Enforce the current 60-day response requirement / criteria of the Police Bureau's Chief of Police. Enforce the requirement that the Auditor put the matter on the Council calendar within 15 days (Auditor and Police Bureau action).
  - **Current Authority / Practice. PCC 3.21.190 Response of Chief**

**3. Staffing and Training Issues**

IPR

- Ensure IPR staff receives *on-going* training in *civilian oversight* that is adequate and appropriate to fulfill their responsibilities. Including internal training and national training as provided by National Association for Civilian Oversight of Law Enforcement (NACOLE) (IPR and Council action).
  - **Completed / Current Practice. In 2010 and 2011, three IPR management staff members attended NACOLE. In 2010 the Auditor also attended and in 2011 a member of Audit Services attended.**
- Ensure funding for CRC training necessary to fulfill its responsibilities for citizen oversight, including a combination of in-house and national training as provided by NACOLE (IPR and Council action; CRC duties and responsibilities).
  - **Completed / Current Practice. In both 2010 and 2011, the Auditor funded one CRC member's attendance at the NACOLE conference. In October and November 2010, the Police Bureau's Training Division led an eight-week training series for Police Review Board community members, CRC members and the public. IPR Director, Assistant Director and Community Outreach Coordinator also led a three-part orientation training for new CRC members in 2010 and 2011, that included the Auditors Office, members of Internal Affairs, and CRC workgroup chairs.**
- Hire outside investigators, when needed, for an independent investigation or special case; maintain a sufficient number of investigators on staff to handle special cases and independent investigations (*IPR powers and duties*).
  - *(Partial) DUPLICATE RECOMMENDATION: Stakeholder Report: I.J. Auditor: Does not disagree. (Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)*
- Hire outside counsel, when necessary, to avoid both actual and perceived conflicts of interest of the City Attorney's Office representing CRC, IPR, and the Police Bureau (**City charter change**).

- (Partial) DUPLICATE RECOMMENDATION: Stakeholder Report: I.F. Auditor: Agree. (Auditor Response to September 21, 2010 final report from the Stakeholder Committee.)
- Provide a “dedicated” IPR staff person for CRC committee and workgroup support (IPR action; CRC powers and duties).
  - DUPLICATE RECOMMENDATION: Stakeholder Report: 2.L. Auditor: Disagree. (Auditor’s November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)

#### CITY COUNCIL

- Ensure that IPR receives sufficient funding to accomplish its mission both thoroughly and expeditiously (Council action).
  - **Completed / On-going. The 2011 City Budget secured funding to make the IPR Assistant Director a full-time permanent position.**
- Fund a “dedicated” IPR staff person for CRC committee and workgroup support (Council action; IPR action; CRC powers and duties).
  - DUPLICATE RECOMMENDATION: Stakeholder Report: 2.L. Auditor: Disagree. (Auditor’s November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)
- Dedicate funds for CRC to accomplish its mission.
  - (Partial) DUPLICATE RECOMMENDATION: Stakeholder Report: 2.L. Auditor: Partial Disagree. (Auditor’s November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)
  - **Partial Completion / Current Practice. The Auditor / IPR management provides staffing for all CRC workgroups, on-going administrative support for general meetings, appeal hearings, and public forums – including printing and distribution of materials and refreshments. IPR staff maintains the CRC webpage and monitors a dedicated e-mail address and phone line. IPR conducts annual new member orientation, conducts annual new member training, and provides for and arranges cultural competency training as well as “ride-alongs” with the Police Bureau.**
- Direct the Portland Police Bureau to return to the finding categories of “unfounded, insufficient evidence, exonerated, and sustained,” and add three new findings of “policy failure, training failure, and supervisory failure.”
  - DUPLICATE RECOMMENDATION: Stakeholder Report: III.A & B. Police Bureau: Disagree. (Bureau of Police Response to final report from the Stakeholder Committee dated September 21, 2010.)

#### CRC

- Increase the length of members’ terms to three years **(CRC powers and duties)**.

- **DUPLICATE RECOMMENDATION: Stakeholder Report: II.C. CRC and Auditor / IPR: Agree. (Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)**
- The Police Bureau should set a firm deadline for full utilization of the data and case management components of its Employee Information System (EIS). The Police Bureau should re-establish its EIS Advisory Board (which included CRC and other community members) and / or be open to involvement by IPR and CRC on EIS issues. Annual progress on EIS, and other functions of the Police Bureau's Professional Standards Division should be publicly reported.
  - **DUPLICATE RECOMMENDATION: "Following up on Portland Police Bureau's Response to Reviews of Officer-involved Shootings and In-custody Deaths" CRC Recommendation 2010.1. Police Bureau: Partial Agreement.(Portland Police Bureau response to the Citizen Review Committee's PARC Report Workgroup Policy Review and Assessment.)**
- Seek training of various topic areas including; civil rights, Police Bureau policy and procedures, problem solving and conflict resolution, and goal setting (IPR action; CRC action).
  - **Completed / Current Practice. (IPR Annual Report 2010 – Chapter 3: Community Outreach and Chapter 4: Citizen Review Committee).**
- Invite Police Bureau representatives to attend CRC meetings to answer policy questions (Police Bureau action).
  - **Current Practice. Multiple Police Bureau members presented on various topics and answered CRC questions at the January 12, February 9, March 9, July 13, 2011 monthly CRC meeting.**

#### 4. Outreach

- Encourage the Mayor and each Commissioner to make a nomination to CRC (Council action; CRC action).
  - **Completed / Current Practice. PCC 3.21.080.A.1: Citizen Review Committee and IPR CRC Recruitment SOP.**
- Identify CRC members to be liaisons with unattached Commissioners and / or vice-versa (CRC action; Council role).
  - **Completed / Current Practice. On February 9, 2011, upon request of CRC Chair Michael Bigham, each CRC member was assigned a City Council member to liaison with.**
- Make joint quarterly and annual reports to City Council (IPR and CRC action).
  - **Completed / Current Practice. CRC and IPR made five joint presentations to City Council in 2010 and one in 2011.**
- Work with police officers to change their view on the disciplinary process (IPR, Police Bureau, and CRC action).
  - **Current Practice. On June 20, 2011, IPR Director made presentation about the powers / duties and responsibilities of IPR on the opening day of the Portland Police Advanced Academy.**



- Schedule periodic ride-along with the Police Bureau (IPR and CRC action).
  - **Current Practice. IPR Assistant Director Constantin Severe rode with Central Precinct Police Officer Ellwood in August 2011.**
- Seek out and attend IPR Community Outreach Coordinator events (IPR and CRC action).
  - **Current Practice. (IPR Annual Report 2010 – Chapter 3: Community Outreach and Chapter 4: Citizen Review Committee)**
- Hold community forums / listening sessions to gather community concerns regarding police accountability (CRC action).
  - **Completed / Current Practice. (IPR Annual Report 2010 – Chapter 3: Community Outreach and Chapter 4: Citizen Review Committee)**
- Establish annual or semi-annual CRC open house events for citizens to learn about IPR, CRC, and the complaint handling process (CRC action).
  - **Auditor / IPR: Agree. IPR will work with CRC Outreach Workgroup to plan an open house event in 2012.**
- Develop and reformulate public education written materials (IPR action).
  - **Initiated / On-going. IPR hired 2011 Summer Youth Connect Program Intern Lawashia Smith to improve / develop an IPR brochure and made changes and improvements to the mediation brochure and complaint form. IPR is also developing a social media strategy.**
- Attend Police Bureau staff meetings and roll calls (IPR action).
  - **Auditor / IPR: Agree. IPR Director and Assistant Director will work with Portland Police Bureau Captains and Commanders to attend staff meetings and roll calls at each precinct in 2012.**
- Discuss IPR's role and functions with police personnel (IPR action).
  - **Current / On-going Practice. IPR Director and Assistant Directors have a standing monthly meeting with Commander of Detectives, standing weekly meeting with Professional Standards Captain, IA Lieutenant, Sergeant and IA staff and have regular meetings with the Police Bureau Director of Services. Frequent meetings by appointment occur with the Chief of Police, Assistant Chief's, Portland Police Association leadership, captains, lieutenants, sergeants and officers.**

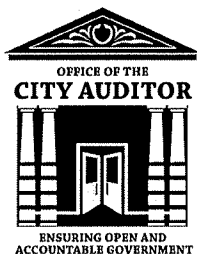
## 5. Transparency

- Make use of the Luna-Firebaugh report's language and suggestions for IPR and citizen oversight transparency – “the public's right to know the public's business” (IPR and CRC action).
  - **Completed / Current Practice. Annually, IPR releases regular reports to increase the transparency of our work and that of the Police Bureau – including the IPR Annual Report, four IPR / CRC Quarterly Reports, and 12 IPR Director's Reports.**

- **Completed / Current Practice.** Ordinance 183995 established a Police Review Board, 3.20.140. Section I of the Ordinance requires the Police Bureau to publish public reports twice annually. In compliance with the above Ordinance, the first installment of the memorandums was posted on the Police Bureau's web site in July 2011.
- Open IPR and IA files to CRC members for review if a concern arises regarding an IPR dismissal or IA decline (IPR and IA guidelines).
  - **Completed / Current Practice.** CRC Recurring Audit Workgroup is currently reviewing dismissals.
- Let the public know about negotiations and discussions between IPR and the Police Bureau regarding policies, and allow citizen comment (IPR and CRC action; IPR protocol).
  - **Completed / Current Practice.**
    - **March 16, 2010, CRC Special Meeting to allow CRC and community members to comment on the proposed changes PCC 3.21.**
    - **IPR / IA development of SOP regarding IPR response to Officer-Involved Shootings (OIS) and In-Custody Deaths (ICD). (*Quarterly Report of IPR and CRC – First Quarter 2011 and IPR Director's Report – July 13, 2011.*)**
- Ensure that IPR publicly reports quarterly and annually on its activities to Council (IPR action)
  - **Completed / Current Practice.** CRC and IPR made five joint presentations to City Council in 2010 and one in 2011.
- Schedule outreach activities to inform the public about IPR's work (IPR action).
  - **Completed / On-going Practice.** (*IPR Annual Report – Chapter 3: Community Outreach*)
- Ensure that CRC regularly reports to the community about its activities through reports and outreach events (CRC action).
  - **Completed / On-going Practice.** (*IPR Annual Report – Chapter 3: Community Outreach and Chapter 4: Citizen Review Committee*)
- Be open and willing to re-examine CRC's role and processes (CRC action).
  - **Completed / On-going Practice.** IPR Director attended Stakeholder Committee meetings from June – September 2010 and a series of CRC Priority Meetings from June – October 2011. IPR Assistant Director has staffed and participated in the CRC Appeal workgroup since January 2010.
- Be open to new ideas, new ways of doing the work, and communicating with the community (CRC and IPR action).
  - **Completed / on-going Practice.** (*IPR Annual Report – Chapter 1: Introduction and Chapter 3: Community Outreach. Auditor / IPR Response to CRC Report on the Structure of the Independent Police Review Division with Recommendations.*)

## 6. Mediation Policy and Procedures

- Define when a mediation session begins (IPR protocols).
  - **Auditor / IPR: Agree. IPR will develop a protocol based on input from professional mediators on contract and the CRC.**
- Return failed mediations to the IPR Director for case-handling decisions (IPR protocols).
  - **Current Practice. IPR will formalize this practice in an updated protocol with input from professional mediators on contract, Professional Standards Division, and CRC.**
- Notify Police Bureau supervisors if an officer fails to appear for a scheduled mediation (IPR action and protocols).
  - **Current Practice. IPR will formalize this practice in an updated protocol with input from professional mediators on contract, Professional Standards Division, and CRC.**
- Follow-up with Police Bureau supervisors when an officer attends, but refuses to participate in good faith with a mediation session (IPR action and protocols).
  - **Current Practice. IPR will formalize this practice in an updated protocol with input from professional mediators on contract, Professional Standards Division, and CRC.**
- End the option for mediation and close the complaint if the community member refuses to participate in good faith or fails to appear without adequate and/or reasonable notice (IPR protocols).
  - *Auditor / IPR: Disagree. Case-handling decisions of complaints will be made by IPR Management on a case-by-case basis considering the underlying facts of the case.*
- Develop guidelines for identifying cases eligible for mediation (IPR protocols).
  - **DUPLICATE RECOMMENDATION: Stakeholder Report: I.K**  
**Auditor / IPR: Agrees. (Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)**
- Include a mediation brochure in IPR's initial complaint response mailing (IPR protocols and procedures).
  - **Current Practice. (IPR Standard Operation Procedures for Investigators - Intake Investigation Process and AIM.)**



# CITY OF PORTLAND

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## Memorandum

Date: October 5, 2011

To: Mayor Sam Adams

From: Portland City Auditor LaVonne Griffin-Valade  
Independent Police Review (IPR) Director Mary-Beth Baptista

Subject: Response to the Albina Ministerial Alliance's (AMA) Demands

### (6) OVERSIGHT: POLICE REVIEW BOARD

\*6.1 The Independent Police Review Division (IPR) and the Citizen Review Committee (CRC) must have the authority, staff, and funding to comprehensively review all records of open and closed investigations of serious injury due to police action and/or deaths while in police custody within one year of the incident, and make all findings public. The IPR and CRC shall explicitly be able to engage in administrative (non-criminal) investigations of these incidents (KJ IR 5, JJP FR 5d, AMA #2).

- Current Authority: Chapter 3.21.070 Powers and Duties of IPR:
  - 3.21.070.D: (in relevant part) Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations... the Director [is authorized] to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigation in conjunction with or independent of the Bureau.
  - 3.21.070.J: (in relevant part) Access to records: Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law ...

\*6.2 The IPR must gain more independence by adding an attorney not connected to the City Attorney's office and adding civilian investigators (JC 8, AMA #2)

- DUPLICATE RECOMMENDATION: Stakeholder Report I.F. Make it easier for the Auditor to hire outside legal counsel at the Auditor's Discretion. (Auditor Agrees:

Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.

\*6.3 The IPR and CRC should review and change policies relating to the use of lethal force. (JMP 7, AMA #2 & 3)

- In part, current authority and practice:
  - Current Authority: 3.21.070.L: Review of closed investigations: IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings (OIS) and deaths in custody (ICD) on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee shall address any policy related or quality of investigation issues that would warrant further review.
  - Current Practice:
    - Portland City Auditor LaVonne Griffin Valade released the fifth independent expert review in July, 2010, that focused exclusively on the 2006 in-custody death of James Chasse, Jr. The public report reviewed the actions of the Police Bureau and made 26 recommendations for change in both policy and practice. The Auditor hired the Office of Independent Review (OIR) to review the closed investigations of at least 15 OIS incidents and one ICD incident that has occurred since 2004.
    - Citizen Review Committee members form and serve on special-purpose workgroups to address particular issues. In 2010, the "PARC workgroup" (named for the "Police Assessment Resource Center," the experts previously hired by IPR to develop recommendations for improving the Police Bureau's investigations and policies related to officer-involved shootings and in-custody deaths) evaluated the Police Bureau's implementation of the recommendations PARC made in its 2005 and 2006 reports.
- In part, Auditor Disagrees. IPR's role is to make recommendations to the Police Bureau to change policy; however the policy decisions are the responsibility of the Chief of Police and the Police Commissioner.

\*6.4 Both the IPR and CRC must be given the authority to compel testimony of anyone involved in a police action. (KJ IR 1, JJP FR 5a, AMA #2)

- In part, DUPLICATE RECOMMENDATION: Stakeholder Report II.F: Permit CRC to compel testimony. (Auditor Disagrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)
- In part, DUPLICATE RECOMMENDATION: Stakeholder Report I.D.: Ensure that IPR has the authority to compel officer testimony and directly interview police officers in administrative investigations. (Auditor Does Not Disagree: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.)



\*6.5 The IPR and CRC must have the authority, staff, and funding to comprehensively review allegations of racial, sexual, socio-economic class, ethnic, and other harassment of the public by the Portland Police. (KJ IR 6, AMA #2)

- Current Authority: Chapter 3.21.070 Powers and Duties of IPR:
  - 3.21.070. D: (in relevant part) Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations... the Director [is authorized] to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigation in conjunction with or independent of the Bureau.
  - 3.21.070.J: (in relevant part) Access to records: Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law ...

\*6.6 The CRC must have the authority to recommend whether discipline should be imposed on an officer, leaving the type of discipline to be rendered up to the Chief of Police. (KJ IR 9, JJP FR 5e, AMA #2)

- Auditor Disagrees: In our system, the commander and / or the voting members of the Police Review Board are the fact finders that determine whether or not a violation of policy has occurred and if so, what discipline recommendation is appropriate based on the facts of the case. The role and responsibility of the CRC in an appeal is to determine whether the fact finders acted reasonably in making the recommendation regarding findings to the Chief of Police.

\*6.7 Meetings involving the IPR/CRC and the Portland Police Bureau about use of force should be open to the public. Use of force data shall be published regularly with the goal of systemic change. (JC 11)

- In part, DUPLICATE RECOMMENDATION: Stakeholder Report III.H.: Make certain task forces public. Auditor Agrees: Auditor's November 8, 2010 Response to September 21, 2010 final report from the Stakeholder Committee.
- In part, current practice. *IPR Annual Report 2010 – Chapter 2: Complaints, Investigations, Appeals, Discipline. (Page 18-19)*