Portland Police Bureau

Report on Recommendations Regarding the Portland Police Bureau by:

Citizen Review Committee PARC Report Workgroup
Police Oversight Stakeholder Committee
Albina Ministerial Alliance
Citizen Review Committee Structure Review Workgroup

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Report on Recommendations Regarding the Portland Police Bureau

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Executive Summary

The Portland Police Bureau is continuously improving the services it provides to the community. The Bureau is committed to developing systems of accountability that are transparent, fair, and build community trust.

Over the past two years, three groups have spent considerable time and effort crafting recommendations to improve operations and the public trust in the Police Bureau's complaint-handling and internal discipline processes: The Citizen Review Committee (through its PARC Report and Structure Review workgroups), the Albina Ministerial Alliance, and the Police Oversight Stakeholders' Committee.

Each group questioned the transparency and fairness of the City's approach to the handling of police misconduct complaints:

- In the case of the Police Oversight Stakeholders' Committee, a facilitated discussion was held involving members from a diverse group of community and activist groups, as well as Independent Police Review and the Police Bureau;
- The Albina Ministerial Alliance crafted and updated its recommendations in response to several high-profile deadly force cases; and;
- Each of the two Citizen Review Committee workgroups held public work sessions over the course of several months to consider the issues and design recommendations to address them.

This report addresses the recommendations from these groups in regards to the Police Bureau. Additional recommendations regarding the City Auditor's Independent Police Review Division have been addressed by that office in a separate report available on the Portland City Auditor's website.

For context, it should be noted that on September 1, 2010, City Council enacted changes to the Independent Police Review (IPR) Ordinance. These changes significantly increased the amount of community oversight of complaint handling and discipline processes.

The ordinance changes included mandatory review of all types of administrative investigations by the IPR Director. This includes investigations of citizen complaints, internally generated complaints, and performance deficiencies. An administrative investigation cannot be submitted to a manager for findings without IPR review.

Once findings are reached by a manager, IPR is required to review those findings and any recommended disciplinary action. The IPR Director is now a voting member of the Police Review Board, which reviews the manager's conclusions and makes a final recommendation to the Chief of Police on findings and recommended

discipline in serious misconduct cases, deadly force incidents, and cases where the use of force by police results in hospitalization.

Employment law requires disciplinary action to be progressive in nature and commensurate with the policy violation. While "severe" discipline may be appropriate in some cases, it may not be in others.

Our response to each recommendation in this report fall into three general categories: (1) Recommendations that are already current practice or have been implemented partially or fully to date; (2) recommendations the City agrees with but have not yet been implemented; and (3) recommendations the City disagrees with.

Recommendations that are already current practice or have been implemented partially or fully to date.

Some recommendations that are already current practice. Some recommendations we implemented immediately, and other recommendations were not implemented completely, but guided improvements. Examples include:

- *PPB should edit policy to ensure medical aid is rendered "as soon as possible unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel."* (CRC PARC Workgroup #3) The current Deadly Force Directive effectively requires this. We have also deployed ballistic shields to facilitate faster response to downed suspects.

- *City Council should provide adequate resources for scenario-based training of PPB officers and supervisors.* (CRC PARC Workgroup #9) City Council has approved funding for a dedicated training facility for the Police Bureau, and efforts are underway to obtain one. This represents a large financial commitment by Council.

- *The initial interview with officers involved in cases of serious injuries or deaths shall take place within [forty-eight] twenty-four hours of the incident.* (AMA #4.1) Internal Affairs has adopted a Standard Operating Procedure requiring officers involved in the use of deadly force to submit to a recorded interview as close as possible to 48 hours after the incident. This is the earliest time allowed under the current collective bargaining agreements. Witness members are required by Bureau directive to submit to an interview before leaving work for the day.

- *Work with police officers to change their view on the disciplinary process.* (Stakeholders #39) Independent Police Review and Internal Affairs personnel routinely conduct outreach, often on an informal basis, with

officers to foster increased understanding of, and buy-in to, the complaint and discipline processes.

Recommendations the City agrees with but have not yet been implemented

Some recommendations will be implemented, but require changes to either Police Bureau policy or procedure, or City Ordinance. These include:

- *Give CRC the Authority to make policy recommendations directly to the Police Bureau.* (Stakeholders #II-D) We welcome the CRC's input, and agree that it would be valuable to receive it directly. This requires a slight change to the City Ordinance. IPR is working to make this change.

- *Increase the length of term for CRC members from two years to three years.* (Stakeholders #II-E) This would also require a change to the Ordinance, but we support it. CRC members develop valuable skills during their time on the Committee, and adding an additional year to their terms would give the City the benefit of this experience.

- *Broaden the use of cameras with audio recording from a few traffic vehicles to all police cars, and ensure the cameras, microphones, and recording devices cannot be tampered with.* (AMA #10.3) The Police Bureau is in the process of a pilot project to install cameras in patrol cars, with an eye toward someday equipping all cars with this equipment. This process will take time, and involves considerable cost, but we believe it will be well worth the investment.

Recommendations the City disagrees with

We found some recommendations to be unworkable. Most of these fell into two general categories:

- *Inconsistent with current case law, employment law, or collective bargaining agreements.* This category included several recommendations for rigid policies regarding use of force, which were inconsistent with the US Supreme Court's decision in *Graham v. Connor.* This decision has become the standard for police use-of-force policies nationwide, and requires that force used by police be "objectively reasonable" given the totality of the circumstances. Public safety agencies nationwide are moving away from mechanical models and toward the reasonableness standard, and Portland follows this trend.

  Other recommendations violate current State law regarding the confidentiality of records pertaining to personnel actions. These recommendations mandated things like public reporting of CRC review documents (Stakeholders #III-F) or a public response from the Bureau when

the Chief's decision differs from the Police Review Board's recommendation (Stakeholders #III-J).

- *Inconsistent with the original intent of the Citizen Review Committee or Independent Police Review.* These entities were established in an effort to increase the transparency and fairness of the Police Bureau's complaint-handling and discipline processes, not to supplant those processes or relieve the Police Bureau of the responsibility of holding its own members accountable.

  Some of the recommendations addressed in this report seek to expand the mission of IPR and the CRC from that of review bodies to one of administrative bodies. Among these are recommendations to require CRC review of proposed allegations before an investigation is started (Stakeholders #II-H), allowing CRC to hear new evidence and rule on that evidence rather than review the reasonableness of the Commander's proposed findings (Stakeholders #II-A), and allowing the CRC to compel testimony (Stakeholders #II-B).

The Portland Police Bureau routinely works with community members to solve problems and improve service. Our members work with diverse groups such as Portland's neighborhood associations and Public Safety Advisory Committees, and could not be successful without their input. This process of recommendations is no different. While we may not agree with every recommendation, we carefully considered each one and tried to ensure our responses were based on what was in the best interests of the community.

Thoughtful citizen involvement in public safety is a key component of community policing, particularly when it comes to improving police accountability. The Police Bureau recognizes the extraordinary amount of thought and effort that went into these recommendations. All of the community members involved in this process have given their time and energy. We are committed to continuing to work with our community partners to ensure the Portland Police Bureau provides the best possible public safety service to the citizens of our community.

How this report is structured

Each recommendation is listed, and is numbered as it was in the original recommendation document. Following a brief summary of the Police Bureau's position on the recommendation are comments on why the Bureau has taken this position.

Citizen Review Committee PARC Report Workgroup Policy Review and Assessment Recommendations

1. *PPB should set a firm deadline for full utilization of the data and case management components of its Employee Information System. The Bureau should reestablish 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 Bureau's Office of Accountability and Professional Standards, should be publicly reported.*

Agree; partially implemented.

The Police Bureau is nearing completion of its new EIS system. Because of the technical complexity of this task, it was difficult to set a deadline for implementation. The Bureau would agree to an annual progress meeting on EIS with the IPR Director and the CRC Chair or designee. The fact that the system is nearly complete alleviates the need for a standing EIS advisory committee.

2. *The Bureau should edit its directives to state that a cover officer or supervisor should be present before a member attempts to forcibly extract a subject from a vehicle unless they are unavailable or exigent circumstances require immediate action.*

Agree in principle; more appropriately done through training.

The Training Division teaches officers to gauge a person's level of cooperation during the contact to assess in advance whether a cover officer will be needed should it become necessary to take the person into custody. Officers are trained that, whenever they foresee a possible physical confrontation, if at all possible, to have a cover officer present.

3. *PPB should edit policy to ensure medical aid is rendered "as soon as possible unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel."*

Agree; current practice.

While this recommendation is not specific as to which directive should be edited, the deadly force directive currently contains a provision about medical attention. The current directive states:

> When a person has been injured by the use of force by a Bureau member or there is a potential for injury to that person, a member shall continually monitor the subject, if tactically feasible or appropriate. EMS will be requested to respond if the injury requires medical attention. The member shall monitor the subject for changes in their skin and/or lip color, breathing and levels of consciousness. If any significant changes in any of these areas are observed, the member shall notify EMS immediately.[1]

The directive is clear in its requirement that medical attention be given to people injured by officers. A life-threatening injury clearly rises to the level of an "injury [requiring] medical attention", which would require EMS to be summoned.

The Police Bureau recently deployed hand-held ballistic shields to allow officers to approach downed suspects much sooner than was previously possible. This allows officers at the scene of the incident an option for taking a downed, but still armed, suspect into custody without waiting for the Special Emergency Reaction Team (SERT).

4. *Use of Force Review Boards should routinely and by policy address if medical aid was appropriately and timely rendered.*

Agree; current practice.

The RU Manager is required to reach findings on any relevant policy issues raised in the case, including post-shooting procedures and medical attention. A Findings Cover Sheet (Appendix A) accompanies the findings when they are reviewed by the Chief's Office, Professional Standards, and IPR. This form gives the reviewers the opportunity to point out any issues such as medical aid for consideration by the PRB.

5. *PPB should edit policy to reflect that Use of Force Review boards will annually review all cases in which use of force resulted in transportation to the hospital.*

Partially agree; the standard is admission to the hospital, which is current practice.

The current City Ordinance, enacted on September 1, 2010, requires all police use-of force cases in which a citizen receives injuries requiring hospitalization to be reviewed by the Police Review Board (The Performance Review and Use of Force Review Boards were replaced by the Police Review Board, or PRB, which fulfills the roles of both).

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[1] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 1010.10, p. 520.

All cases involving transport to the hospital are reviewed by a supervisor, who prepares an After-Action report to the Chief's Office regarding the incident. It is common in such cases for an arrested person to be taken to the hospital upon the recommendation of the paramedics, only to have little or no actual medical treatment. Often, medical attention at the hospital is limited to an evaluation and screening for serious medical issues and, when none are found, the subject is discharged. Having a hospital admission as the standard for a PRB review of a use of force ensures that only those cases where actual injury was sustained are reviewed.

6. *The Bureau should collaborate with key stakeholders to develop a dedicated Administrative Rule or Standard Operating Procedure detailing the Review Board process. Among other issues, the new policy should address how officer testimony is requested, responsibilities of members, advisors, and the Chair, and specific voting procedure.*

7. *PPB should contract with a hearings officer or administrative law judge to chair and facilitate all Review Board meetings.*

(Responses combined for clarity) Agree; nearing completion.

On August 13, 2010, City Council adopted Ordinance 3.20.140. This ordinance spells out the scope and duties of the Police Review Board. The Board is to be facilitated by a person who is not a Bureau member. The current practice is to use professionally trained mediators from a pool selected by the Bureau, in collaboration with community stakeholders. The process for holding a Police Review Board has been spelled out in the form of a Standard Operating Procedure, which includes a checklist for the Review Board Facilitator. (See Appendix B)

The ordinance requires the Bureau to develop a Directive establishing selection criteria and confidentiality provisions for facilitators. We have drafted such a directive, and it is currently in the implementation process.

8. *The Bureau should develop a timeline checklist to accompany each officer-involved shooting or in-custody death case, use current baselines to set reasonable timeliness targets, manage resources to adequately meet timelines, and track results.*

Agree; current practice.

The Detective Division is required by policy to complete the investigative file within 30 days of the conclusion of any Grand Jury proceedings (or any final decision regarding criminal culpability by the District Attorney) in deadly force cases. Two weeks after the file is completed, Internal Affairs and the Training Division are required to meet with Detectives to identify issues to be reviewed by the PRB. Internal Affairs then has six weeks to finish the administrative investigation, and

Training has six weeks to finish the training review for the incident. Upon receipt of the investigative and training files, the involved member's RU manager then has 21 days in which to render a proposed finding.[2]

Independent Police Review (IPR) is included in the case strategy meeting with Detectives. Timelines for findings review by the Chief's Office, Professional Standards Division, and IPR are the same as for other administrative investigations.

We use the AIM database to track the progress of deadly force cases through the system. Weekly reports are generated indicating who currently has each case and how much time the case has been there. This process serves essentially the same purpose as a dedicated checklist.

9. *City Council should provide adequate resources for scenario-based training of PPB officers and supervisors.*

Agree; implementation in progress.

One of the biggest challenges for conducting scenario-based training is finding suitable facilities. Mayor Adams and the Council have made funding for a dedicated training facility a top priority. The Bureau is currently working through the process to identify a site and construct a training facility. This will much better enable the Bureau to conduct scenario-based training.

10. *City Council should expand the role and authority of IPR in officer-involved shootings and in-custody deaths – including the ability to conduct independent investigations of these cases as needed. The expanded authority should also include monitoring roles such as oversight of the crime-scene procedures, evidence collection and preservation, witness identification and interviewing, investigative file integrity, and presentation of evidence at Review Boards.*

Agree; current practice.

IPR is authorized by City Ordinance to conduct independent administrative investigations, and nothing in the ordinance precludes IPR from conducting an independent investigation into a deadly force incident. The IPR Ordinance also allows IPR to monitor all administrative investigations, which includes those in deadly force cases.

Internal Affairs enacted a Standard Operation Procedure (SOP #7) in February, 2011, which included a provision for immediately notifying the IPR Director or designee of a deadly force incident and facilitating his/her response to the scene. At the scene, the IPR member meets with the Professional Standards Captain, who assists in gathering information from Detectives. The SOP also requires Professional

[2] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 335.00, p. 103.

Standards to notify IPR of the date, time, and location of the Detective Division investigative briefing, which typically takes place the day after the incident. An IPR representative attends this briefing. (See Appendix C)

Police Oversight Stakeholder Committee Recommendations

Section I – IPR Authority and Structure

A. Repair community distrust of use-of-force investigations (up to and including shootings and in-custody deaths).

Agree; efforts underway.

The Police Bureau has taken several steps to improve use-of-force investigations. Investigation reports in high-profile use-of-force cases have been released to the public. Administrative investigations into deadly force and in-custody death cases, as well as use-of-force complaints, are monitored by IPR, including response to the scene in deadly force cases.

B. Ensure that IPR investigations include specified more serious complaints.

Partially agree; IPR is heavily involved in current practice.

Per City Code, IPR is involved in every administrative investigation. The decision for IPR to conduct independent investigations rests with the IPR Director and the City Auditor. All administrative investigations, regardless of the seriousness of the complaint, must be reviewed and approved by IPR before being submitted to RU managers for findings.

C. Ensure that IPR has, and exercises, the power to conduct or participate in investigations (from time zero) of specified serious incidents.

Agree; current practice.

Per City Code, Internal Affairs is required to notify IPR upon the commencement of any administrative investigation, including those that are internally generated and do not involve a citizen complainant. After this notification, the IPR Director decides how much involvement IPR will have in the case. IPR staff routinely sit in on interviews, and Internal Affairs routinely consults with IPR throughout the investigation of high-profile or complex cases.

D. Ensure that IPR has the authority to compel officer testimony and directly interview police officers in administrative investigations.

Disagree; unnecessary in practice and violates labor agreements.

City Code 3.21.120, enacted on April 30, 2010, contains a mechanism for IPR to obtain statements from Police Bureau employees. In practice, this has not been an issue, as IPR staff routinely ask questions of officers while sitting in on interviews.

Changing the process to allow IPR to directly compel officer testimony is unnecessary and would be a mandatory subject for bargaining with the Bureau's labor unions.

E. Ensure investigations conducted by IPR or IA and reviews by CRC can proceed in a manner that is consistently and objectively independent.

Agree; current practice.

The Police Bureau recognizes the Auditor's authority to conduct independent investigations. The Police Bureau regularly provides information to IPR investigators during the complaint intake process, within the boundaries imposed by State law. In 2010, Internal Affairs was incorporated into the Professional Standards Division, which is overseen by the Director of Services. The Director is a non-sworn position.

In addition, Internal Affairs has moved to an entirely non-sworn investigative staff. IA investigators are thus not likely to be influenced by promotional aspirations or concerns that they will one day be transferred to another assignment. This has significantly increased the independence of administrative investigations.

F. Make it easier for the Auditor to hire outside counsel at the Auditor's discretion.

This recommendation is addressed by IPR.

G. Require that IPR investigate or actively participate in the investigation of all complaints of those with the rank of Captain or higher.

Agree; current practice.

Per City Code, IPR reviews all administrative investigations, including those of command staff. IPR has the option of actively participating in investigations, and regularly does so when the subject is a command member.

H. Diversify the pool of investigators at both IPR and Internal Investigations.

Agree; current City policy.

The Portland Police Bureau is actively recruiting and retaining a diverse workforce. Internal Affairs has hired an investigator from outside Portland, and as investigative positions become available we will continue to seek employees of diverse backgrounds.

I. Ask every complainant if they would prefer to have IPR or Internal Investigations investigate their complaint and document the response.

Disagree; IPR review and right-to-respond to internal investigations provides more accountability than a parallel or dual-track investigation process.

The current model provides IPR with oversight of administrative investigations and allows for cases to be handled using the investigative resources of Internal Affairs while ensuring an objective outcome through the IPR review process. Discrepancies or shortcomings in any Internal Affairs investigations are addressed by the IPR review.

J. If complainant opinions support doing so, increase the investigative resources at IPR.

Agree in principle; subject to budget realities.

Current budget realities necessitate efficient operations in all areas of City government. The current practice of robust IPR involvement, monitoring, and review of administrative investigations has greatly improved the objectivity and transparency of the Bureau's complaint and discipline process. This is the most efficient way of achieving the goal of increasing community trust in the City's process for resolving complaints against the police.

K. Formalize / mandate what is current practice to not use mediation in serious use-of-force cases.

Agree; IPR is in the process of implementing this.

Section 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.

F. Permit CRC to compel testimony.

G. If the CRC is not given authority to compel testimony, then grant City Council the power to hear new evidence.

(Responses combined for clarity) Disagree; this would blur the much needed lines of accountability for timely, impartial, and complete administrative investigations.

With recent reforms that provide for more IPR oversight, the Police Bureau has made great strides in its ability to conduct timely, impartial, and complete administrative investigations and to take appropriate corrective action when necessary.

Based on our consultation with the Office of the City Attorney, we believe enacting these recommendations would fundamentally change the existing structure of IPR

police oversight in Portland. The current model includes several newer mechanisms that strengthen outside expert and citizen review of the Police Bureau's internal complaint and discipline process. If implemented, we believe these three recommendations will do the opposite of what they intend: they would muddle the much needed clear lines of accountability between the elected Police Commissioner, the Police Chief, staff and the public.

The CRC's and Council's roles in the review process are not intended to be like that of a trial court, which hears and weighs evidence and reaches its own conclusion as to the facts of a case. Their roles are more like that of an appeals court. CRC and City Council do not hear new evidence, and make rulings solely as to the reasonableness of the finding, and the objectivity and completeness of the process by which the RU manager arrived at that finding. The ultimate responsibility for complaint outcomes rests with the Police Chief, Police Commissioner, and City Council.

Additionally, implementing these recommendations would likely be a mandatory subject for bargaining with the Bureau's labor unions.

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

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

(Responses combined for clarity) Agree; IPR is working on necessary ordinance changes.

The Police Chief has agreed that it would be helpful to receive input directly from the CRC. The Bureau also recognizes the value of longer terms for CRC members. The Auditor's Office is in the process of drafting an ordinance to enact these changes.

D. Ensure CRC may hold hearings on all appeals requested by complainants or Bureau members.

Agree; current practice.

The City Ordinance allows for appeal hearing whenever a timely request is made.

E. Clarify CRC authority to present directly to Council.

Agree.

H. Increase the size of the CRC.

Disagree; not necessary.

Our understanding is that the CRC itself has discussed this option and decided not to pursue it.

I. Allow CRC to review proposed allegations prior to investigation.

Disagree; this would add to the time needed to complete investigations and would blur much needed lines of accountability for timely, impartial, and complete administrative investigations.

This would add additional time to a process the Police Bureau is working diligently to accelerate. During the intake and investigation processes, allegations may be reworded to more accurately fit the alleged policy violation. As an investigation unfolds, additional allegations are often added based on new information. IPR makes all initial allegations in citizen complaint cases, and reviews the final investigative report to ensure all allegations have been identified and properly addressed.

J. Increase CRC authority to act on dismissed complaints, service improvement opportunities, and formulation of allegations.

Disagree; this authority is already vested with the Independent Police Review Director.

This authority is already vested with the IPR Director, who is hired as an expert in these matters by the independently elected City Auditor. The IPR Director reviews citizen complaints and makes recommendations to the Bureau as to case handling decisions. The CRC currently audits this function, and makes recommendations (and can now also make them directly to the Police Bureau) on areas of needed improvement.

K. Establish an avenue for appeal or reconsideration for cases involving quality-of-service or minor rule violations.

Disagree; could add time to the overall review process; such an appeal avenue already exists.

Complainants who are dissatisfied with the handling of a Service Improvement Opportunity can discuss their case with the IPR Director and the Professional Standards Division Captain. Shifting this role to the CRC would add substantial time to the already lengthy process of resolving low-level complaints, since CRC meets only once a month. The CRC's role, as explained above (See recommendations 12, 13, and 14) is to review the decisions made by IPR and the Police Bureau and make recommendations for improvement.

L. Provide dedicated staff to support the CRC.

Our understanding is that this recommendation has been addressed by IPR.

Section 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.

Disagree; past practice shows this can be counter-productive.

For many, the current three finding categories are the result of real-world experience with the process. In the past, considerable time was spent at the PRB and CRC determining whether an allegation was unfounded (meaning the incident did not happen as alleged) or there was insufficient evidence to prove or disprove it. Since the end result of either finding is the same, it seems to be more efficient to have them combined into one type.

B. Ensure that findings indicate a separate rating regarding the overall incident that would identify the presence of any policy-related issues as that term is defined in Portland City Code.

Partially agree; current practice accomplishes the same thing.

This recommendation is close to current practice. A "Findings Cover Sheet" (see Appendix A) accompanies the RU manager's recommended finding to its review by the Chief's Office, the Professional Standards Division, and Independent Police Review. This cover sheet includes space for noting any policy, training, or supervision review needs identified by any of these entities. The Police Review Board also has the opportunity to propose policy review in its findings. The Chief of Police and Police Commissioner also have the ability to order a policy review based on the circumstances of any particular incident.

C. Replace the term "Service Improvement Opportunity" with the term "non-disciplinary complaint".

Disagree; misrepresents what this category of complaints covers.

Service Improvement Opportunities (SIOs) are complaints regarding minor work rule violations or in which the officer, even if the allegation is true, would not face disciplinary action. SIOs are intended to serve as a means to identify quality-of-service issues, with an eye toward continual improvement of public safety service. The current name for this process more accurately conveys its intent than "non-disciplinary complaint".

D. Ask opinion on complaint-handling preference.

Disagree; current practice is more objective.

While IPR does ask complainants, in appropriate cases, whether they are interested in mediation, the final case-handling decision is made by the IPR Director and the Internal Affairs Lieutenant. A case-handling decision is based on the seriousness of the allegation(s) and evidence gathered during the intake investigation. Also considered are things outside the complainant's knowledge, such as the officer's complaint history. Complaints frequently involve an emotional situation for complainants, and the case-handling decision needs to be made objectively to safeguard the credibility of the process.

E. Make it easier for complainants to get publicly available records.

Agree; current practice.

Release of records is governed by Oregon state law. The Police Bureau and IPR already have policies in place regarding public records release. Public records such as police reports are readily available from the Bureau.

F. Make certain CRC review documents available to the public.

Disagree; inconsistent with public records law.

As an employer, the City is bound by the confidentiality provisions of state law[3] and collective bargaining agreements. Since the CRC's review documents are part of the employer's disciplinary process, providing them to the public violates these rules.

G. Required reporting on reasons for long investigations.

Partially agree; too public a disclosure or one at the wrong time could compromise investigations.

IPR management and Internal Affairs command meet weekly to discuss the progress of investigations. While we are not opposed to public reporting on broad trends in case timelines, we caution against reporting on open cases, as this could tend to jeopardize investigations. For example, an administrative case connected to an ongoing criminal investigation could compromise the criminal investigation, or an investigation may have revealed new allegations that are not ready to be made public. Any review of the timeline of an administrative investigation should be done only after the case is closed.

H. Make certain task forces public.

Disagree; makes changes take too long to implement.

[3] See ORS 181.854, ORS 192.501, and ORS 192.502.

IPR and the CRC have been established as independent representatives of the community. The Bureau regularly consults with members of both entities for input on policy matters. Often, this takes place informally. Requiring every such meeting to be open to the public will complicate the process and make change much slower.

I. Mandate investigative resource levels.

Disagree; unnecessarily rigid.

Rigid guidelines for investigative resource levels fail to take into account changing workloads and organizational needs. For example, a few years ago PPB received on the order of 750 complaints a year. The current number is roughly half that. Mandated resource levels at the previous workload would be double what is currently needed. A better way to ensure Internal Affairs and IPR have the resources they actually need would be to look at timelines for complaint handling. Longer timelines may indicate a need for additional resources. The Police Bureau is committed to maintaining adequate resources for Internal Affairs.

J. Require prompt explanation for decisions that differ from the Police Review Board's recommendations.

Disagree; violates public records law and employee's legal rights.

Such an explanation is normally documented in the final discipline letter given to the employee. Requiring a public written statement on each case could infringe on an employee's protected privacy rights. This information is normally given to the IPR Director, which ensures review and monitoring in this area.

K. Require more specific reporting on the relationship between sustained findings and discipline.

Our understanding is that this subject was addressed by IPR.

L. Report on aspects of the mitigation process.

Agree; will be implemented.

These statistics should be available as the Police Bureau moves forward and should be captured in the public reporting process for the Police Review Board.

M. Order another expert review in 2012.

Agree.

This decision should be made by the City Auditor. The Police Bureau welcomes such a review and any feedback that would help improve service.

N. Hold another stakeholder review.

Neither agree nor disagree. This is a matter for City Council as a whole to consider.

Section 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 in specific situations.

Disagree; undermines the accountability expected of and for an RU manager.

Division commanders are responsible for setting and enforcing performance expectations for their divisions. Excusing the RU manager from the decision-making process allows commanders to avoid holding their employees accountable. The Police Bureau believes it is a key element of sound leadership to require commanders to go on the record as to their recommendations in disciplinary cases. The current PRB structure forces commanders to justify their recommendations in light of the facts of the case.

B. Add another citizen member to the PRB for use-of-force [cases].

Disagree; the current structure is appropriately balanced.

The current structure of the PRB for use-of-force cases is working. The addition of the IPR Director as a voting member and the removal of two Assistant Chiefs as voting members, as required by the 2010 City Ordinance, creates an appropriate balance of perspectives on the PRB.

Section V – Complaint-driven PPB policy improvement process

A. IPR and CRC to be provided drafts of certain policy-change decisions.

Disagree; if mandated, it is inconsistent with the purpose of IPR and CRC.

The Police Bureau often seeks policy input from both IPR and CRC, as well as from other groups in the community. Mandating CRC review of proposed policy changes, however, would slow an important process. Court decisions and critical incidents often necessitate immediate policy changes, and the Chief of Police needs the ability to make such changes. The Chief of Police and the Police Commissioner are ultimately responsible for the policies of the Police Bureau. The CRC and IPR are responsible for reviewing Police Bureau policies and making recommendations when necessary.

Section 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.*

Agree; our understanding is that IPR is working on this process.

Albina Ministerial Alliance 2010 "Community Demands"

1.1 *Officers must be required by Bureau policy to use and document the use of less-lethal and non-lethal means to subdue suspects prior to using deadly force, in the absence of gunfire. The decision to use lethal force must be tied to the seriousness of an alleged offense; presumably only violent arrestable offenses would justify "stepping up" the level of force.*

Agree on principle, but differ on approach; current policy requires the use of the leas amount of force reasonably necessary under the totality of the circumstances.

Directive 1010.20 requires officers to document any force used and ensures such documentation be accurate. Directive 1010.10 outlines policy requirements for the use of deadly force. Officers are required by policy to use the least amount of force reasonably necessary under the totality of the circumstances.

Allowing the use of deadly force only when officers are confronted by gunfire overly limits the ability of police officers to protect the public. This is because of the myriad of ways individuals can present a community member or an officer with the threat of death or serious physical injury. A standard like the one adopted in Directive 1010.10 allows officers the flexibility necessary to deal effectively with threats to themselves or others, while being held accountable for their decisions.

1.2 *The Portland Police Bureau should severely discipline any officer involved in failing to follow Bureau policy or taking actions unnecessarily or unwisely leading to the use of deadly force, and encourage any such officer to no longer work for the Police Bureau.*

Agree; the Police Bureau is exploring methods for enhanced supervisory review of use-of-force incidents.

The Police Bureau has long had a policy prohibiting officers from precipitating the use of force.[4] The Bureau is exploring ways of providing for a more robust supervisory review of the use of force by officers, with an eye toward learning from incidents and continual improvement of service.

As we already referenced, on September 1, 2010, City Council enacted changes to the Independent Police Review (IPR) Ordinance. These changes significantly increased the amount of community oversight of complaint handling and discipline processes.

[4] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 1010.20, p. 529.

The ordinance changes included mandatory review of all types of administrative investigations by the IPR Director. This includes investigations of citizen complaints, internally generated complaints, and performance deficiencies. An administrative investigation cannot be submitted to a manager for findings without IPR review.

Once findings are reached by a manager, IPR is required to review those findings and any recommended disciplinary action. The IPR Director is now a voting member of the Police Review Board, which reviews the manager's conclusions and makes a final recommendation to the Chief of Police on findings and recommended discipline in serious misconduct cases, deadly force incidents, and cases where the use of force by police results in hospitalization.

Employment law requires disciplinary action to be progressive in nature and commensurate with the policy violation. While "severe" discipline may be appropriate in some cases, it may not be in others.

1.3 The City of Portland will adopt a city wide ordinance against police brutality.

Current law; excessive force already violates Bureau Policy and state law.

In addition to being prohibited by Police Bureau policy, excessive force is subject to criminal prosecution under the State's Assault and Official Misconduct statutes.

1.4 The State of Oregon's statute on deadly force should include objective standards defining a threat to public safety, rather than an officer's "reasonable belief" that their life or another's is in danger.

Disagree; appears to be inconsistent with US Supreme Court case law and best practices.

According to the Office of the City Attorney, current State law and Portland Police Bureau policy regarding the use of force by police officers is in line with the United States Supreme Court's decision in *Graham vs. Connor* (490 U.S. 386 (1989)). The Court recognized that police officers are often called upon to make split-second decisions in tense, uncertain, rapidly evolving circumstances. An officer's actions are required to be "objectively reasonable" in light of the circumstances.

Strictly defined criteria for when an officer can use a particular level of control can create problems when an officer is confronted with a situation that does not fit within the criteria for any particular level of control. The *Graham* standard holds officers accountable by requiring them to show that their use of force choices in any given situation were reasonable.

As already noted in this report, Directive 1010.20 requires officers to document any force used and ensures such documentation be accurate. Directive 1010.10 outlines

policy requirements for the use of deadly force. Officers are required by policy to use the least amount of force reasonably necessary under the totality of the circumstances.

1.5 *The Bureau must involve community members in developing police training and policy.*

Agree; strengthening current practice.

Input for Portland Police Bureau training curriculum comes from several areas:

- State Department of Public Safety Standards and Training (DPSST) requirements.
- Occupational Safety and Health Administration (OSHA) guidelines.
- Internal review of critical incidents.
- Examination of other law enforcement agencies, including those in cities comparable to Portland.
- National models and accepted best practices.
- Court decisions and case law.
- Professional review organizations such as the Police Assessment Research Center (PARC) and the Office of Independent Review (OIR), which typically include community input in their recommendations.
- Direct input to the Chief's Office from community groups, the community academy, advisory group feedback, the Citizen Review Committee, and City Council.
- Further improvements ahead, as a result of the Mayor's and Commissioner Saltzman's invitation to the U.S. Department of Justice Civil rights Division to review Bureau training and practices.

1.6 *If used at all, a less lethal ("Beanbag") shotgun should not be used for compliance, and not used from less than 10 feet.*

Disagree; inconsistent with case law.

As already noted, Directive 1010.20 requires officers to document any force used and ensures such documentation be accurate. Directive 1010.10 outlines policy requirements for the use of deadly force. Officers are required by policy to use the least amount of force reasonably necessary under the totality of the circumstances.

Further, in the wake of the *Graham* decision, the trend in law enforcement use-of-force policy has been away from rigid, mechanical models and toward the more holistic model of the objective reasonableness standard. The nature of police work is such that officers are frequently confronted with novel or unusual situations. A strict prohibition of the use of less lethal force to achieve compliance would limit

options for dealing with a situation where, in the totality of the circumstances, the use of such force would be the best option for meeting the needs of the community.

The Training Division instructs less-lethal shotgun operators to target the waistline and lower extremities to minimize the chance of serious injury from beanbag munitions. There have been no known fatalities from beanbag rounds targeted in this manner.

1.7 *If used at all, use of police dogs should be coordinated so as not to be used simultaneously with other uses of force.*

Disagree; does not allow enough flexibility.

Use of a police dog as a less lethal force option to hold a suspect while simultaneously using another force option (most commonly a less-lethal shotgun) is a relatively common strategy that has prevented the need for deadly force. There have been several documented instances where using this type of tactic against armed individuals has kept officers from having to use deadly force to resolve an extremely dangerous situation. As always, under the Bureau's use of force policy, any such use of force must be shown to be objectively reasonable upon review. All incidents where a police dog bites someone are subject to the Bureau's after action review process. However, as already mentioned, the Bureau is exploring ways to enhance supervisory review of each use of force, including police dogs.

1.8 *All less lethal weaponry should be re-evaluated for effectiveness, potential dangers, and appropriateness for use against civilians, including Tasers, "beanbag" shotguns, and pepper spray. This review shall include the disturbing policy of using these weapons against suspects who are fatally wounded.*

Agree; current practice.

The Training Division assigns members as subject matter experts in various disciplines, including less lethal weaponry. These experts continually review the literature and research regarding less lethal weapons' effectiveness or any hazards that are identified.

As already mentioned in this report, any need to use less lethal weapons on people who are fatally injured is reduced by the recent deployment of hand-held ballistic shields to allow officers to approach downed suspects much sooner than was previously possible. This allows officers at the scene of the incident an option for taking a downed, but still armed, suspect into custody without waiting for the Special Emergency Reaction Team (SERT).

The Police Bureau does not instruct officers to use less lethal weapons on people who are fatally injured. This tactic has been used, rarely, in cases where officers have used deadly force on an armed suspect who is down either on top of or in very

close proximity to a firearm. Less lethal weapons are used in such situations to ensure the suspect is incapacitated prior to the officers' approach.

It is important to note that this is usually done in a situation where officers have had a violent encounter with an armed person who has already demonstrated the willingness to use deadly force against officers and/or members of the community. The subsequent evaluation of whether the use of such force is within policy includes a careful review of the totality of circumstances as they are known by the officers at the time. An administrative investigation into a deadly force incident would look at the reasonableness of all force used during the incident, including post-shooting deployment of less-lethal weapons.

1.9 *At any scene requiring police action, no officer may put himself or herself into the car of a suspect.*

Agree; current policy.

Directive 1010.20, adopted in 2009, prohibits officers from entering a vehicle under someone else's control except to address an immediate threat of death or serious physical injury to someone.

1.10 *Reconcile the Bureau's training on use of force with the de-escalation taught to all officers in Crisis Intervention training, so that police are more likely to talk and less likely to cause injury.*

Agree; strengthening current practices.

In its 2011 In-Service training, the Bureau conducted several scenarios requiring officers to de-escalate situations without using force. In one scenario, a business owner is contacted about a crime report and is openly carrying a firearm on his belt. He has a concealed weapons permit. This is legal for him to do, but causes some safety concerns for the officer. Members were required to work through the scenario, and their response was critiqued by a team of three Training Division officers.

In another training exercise, officers moved through a firearms course on the range with different targets, some presenting threats and others presenting no threat. Officers were required to quickly make shoot/don't shoot decisions on the basis of incomplete information and under stress to simulate conditions that could be encountered in the real world.

1.11 *Use of Tasers shall be limited as outlined by PARC in its 2009 report: limited to one discharge cycle by one officer, then a reassessment, then used no more than three times total. This includes not having multiple officers use Tasers simultaneously.*

Disagree as stated; current policy is to use the least amount of force reasonably necessary under the totality of the circumstances.

As already mentioned in this report, Directive 1010.20 requires officers to document any force used and ensures such documentation be accurate. Directive 1010.10 outlines policy requirements for the use of deadly force. Officers are required by policy to use the least amount of force reasonably necessary under the totality of the circumstances.

Building on these policies, the Bureau is now exploring means of enhancing supervisory review of force incidents.

A numerical standard such as this does not allow sufficient options for officers to resolve tactical problems in circumstances that are rapidly evolving and uncertain. A mandatory reassessment after one Taser cycle, for example, may, in some cases, present the suspect with an opportunity to attack others or the officer, thereby requiring an escalation to an even higher level of force. Strictly limiting the options officers have to deal with resistive suspects tends to compromise officers' effectiveness.

1.12 *All officers will be thoroughly trained to ensure removal of keys from cars in all traffic stops in which an arrest is imminent. The keys will not be put in a place where a suspect can grab them.*

Agree; citizens have no legal obligation to comply with such a request.

The Training Division currently teaches officers to ask drivers to remove the keys from the ignition and put them on the roof of the car when they believe the traffic stop may develop into something more serious. The driver can refuse this request, and officers have limited options for overcoming such resistance.

1.13 *De-escalation includes using time as a factor; waiting for backup when there is not an immediate crisis is an example.*

Agree; strengthening de-escalation practices.

The Training Division is expanding on its ongoing training to officers to wait for additional officers before taking a person into custody whenever possible. Officers are also trained to select a staging area and meet with the other responding officers a short distance away from the scene of high risk calls, and not to rush in unless it is absolutely necessary.

Police and the Bureau of Emergency Communications (BOEC) are also revising dispatch and practice protocols when responding to calls regarding suicidal people who are not considered a danger to others.

1.14 Emphasize the preambles to the use of force and other policies which describe the value of human life.

Agree; current practice.

The Police Bureau's deadly force directive was amended in 2005 to include a statement regarding the value of human life. As with all policies and procedures, officers are provided a copy of the directive, trained on it, and expected to be familiar with it.

2.1 Policy and training must require officers to be trained to de-escalate situations and apprehend suspects using the least amount of force possible. Senior officers must take the lead in developing simple and practical plans which can be communicated to all officers on the scene and documented afterward. Supervisors and backup must be present before extracting a suspect from a vehicle.

Agree; strengthening current practice.

As discussed in our answer to the AMA's Recommendation 1.10, the Bureau recently conducted In-service training regarding de-escalation. For situations requiring a multiple-officer response, Bureau members are trained to make a plan and have a leader responsible for coordinating the response.

The Training Division teaches officers to gauge a person's level of cooperation during the contact to assess in advance whether a cover officer will be needed should it become necessary to take the person into custody. Officers are trained that, whenever they foresee a possible physical confrontation to have a cover officer present if at all possible.

2.2 Commanders should not leave the scene; clear line of command should be established.

2.3 Communication between negotiators and other "teams" must be established.

(Responses combined for clarity) Agree; current practice.

The Bureau has developed a Critical Incident Command structure which includes a cadre of specially trained incident commanders who respond to major incidents. The supervisor of each specialized team at a critical incident (such as the Hostage Negotiation Team, the Special Emergency Reaction Team, and the Explosives Disposal Unit) reports to the incident commander, who is responsible for establishing the operational objectives and strategy. These teams routinely train together to practice and refine tactics and improve inter-unit communication.

At a recent patrol rifle operators' training class, the Training Division conducted scenario training regarding effective communication between negotiation, tactical, and supervisory elements at critical incident scenes.

2.4 *Proper equipment must be bought, distributed, and trained with to ensure communication, such as earpieces which allow two-way dialogue.*

Agree; current practice.

In 2009, the Police Bureau purchased 182 radio earpieces for uniformed members. In 2010, the Police Bureau purchased 128 radio earpieces. It was cost-prohibitive to purchase earpieces for every officer in the Bureau all at once. Earpieces were issued first to rifle operators, bicycle officers, and officers who worked in the Entertainment District. The remaining earpieces were issued to officers who requested them.

2.5 *Public statements by involved officers or representatives of the Bureau regarding shootings and deaths should be cleared through the Chief's office.*

Depends on phase of investigation.

Typically, in an ongoing investigation, involved members are ordered not to speak to the public in detail about the incident. Once the case is closed, however, the Bureau feels that restricting communication beyond the confidentiality requirements prescribed in state and federal law is detrimental to transparency and community relations.

3.1 *In case of injury of any suspect, all officers must remain on the scene and at least one officer must administer first aid/CPR and remain with the injured person or persons until paramedics arrive. Police must not hamper or delay prompt medical attention from being administered. First aid training must include direction to apply first aid as soon as possible.*

Agree; current practice.

Directive 630.45, which was adopted in 2009, requires officers to call Emergency Medical Services (EMS) immediately if they have concerns regarding a person's medical status during an incident or custody situation.

The current Use of Force directive states:

> When a person has been injured by the use of force by a Bureau member or there is a potential for injury to that person, a member shall continually monitor the subject, if tactically feasible or appropriate. EMS will be requested to respond if the injury requires medical attention. The member shall monitor the subject for changes in their skin and/or lip color, breathing and levels of

consciousness. If any significant changes in any of these areas are observed, the member shall notify EMS immediately.[5]

The directive is clear in its requirement that medical attention be given to people injured by officers.

As already mentioned in this report, the Police Bureau recently deployed hand-held ballistic shields to allow officers to approach downed suspects much sooner than was previously possible. This allows officers at the scene of the incident an option for taking a downed, but still armed, suspect into custody without waiting for the Special Emergency Reaction Team (SERT). This in turn allows for faster medical attention for the suspect.

3.2 *Any person who loses consciousness or shows other signs of health emergency while in custody must immediately be transported to the nearest emergency room via ambulance transport.*

Agree; current practice.

Presumably, this recommendation applies to people who are in custody or have had force used on them by the police. This is addressed in the Use of Force directive (cited in Recommendation 3.1), which requires officers to monitor the level of consciousness (among other signs of injury) of people upon whom they have used force. If the member observes "significant changes" in level of consciousness, he or she is required to notify EMS immediately.

The decision of whether to take the person to the hospital is largely out of the officer's control. Paramedics and the arrested person him/herself make the decision about what level of medical treatment is appropriate. It is therefore difficult for Police Bureau policy to require a transport to the hospital.

4.1 *The initial interview with officers involved in cases of serious injuries or deaths shall take place within [forty-eight] twenty-four hours of the incident.*

Agree; current practice is to complete the initial interview as quickly as contractually possible.

The current practice in deadly force and in-custody serous injury or death cases is for the involved officers (defined as officers who either used or ordered the use of deadly force) to be interviewed by Internal Affairs investigators 48 hours after the incident. Witness members are required by Directive to submit to an interview by detectives before leaving work for the day.[6]

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[5] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 1010.10, p. 520.
[6] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 1010.10, p. 523.

4.2 The Mayor and city council should pass an ordinance that if someone dies at the hands of the police there will be a medical examiner's inquest or other public airing of the facts by those involved.

Agree in principle; current practice allows for this without an ordinance.

The District Attorney's practice is to submit deadly force cases to the Grand Jury for review. The Grand Jury process is a more thorough review of such an incident than an Inquest, which is limited to the following issues:

- The deceased person's identity
- When and where the person died
- The cause of death
- The manner of death (natural, accidental, suicidal, homicidal, legal intervention, or undetermined)[7]

By contrast, the Grand Jury reviews all of the evidence in the case and renders a determination as to criminal liability, if any, of the officers involved. Whether or not there is an Inquest, there will be a Grand Jury review of any use of deadly force by law enforcement in Multnomah County. The Mayor does request that the District Attorney record the Grand Jury proceedings. The transcripts of Grand Jury Proceedings are then made public. In practice, this accomplishes the same objective as having a public Inquest, which is to inform the public as to what happened, in a much more efficient manner.

4.3 Establish an independent prosecutor for all cases of possible police criminal conduct to avoid the inherent conflict of interest within the Multnomah County District Attorney's office.

Disagree; making transcripts of Grand Jury proceedings public achieves this goal.

While this recommendation would mitigate the perception that there is a conflict of interest with the District Attorney's office reviewing police deadly force cases, we believe the recording of Grand Jury proceedings that are then made public accomplishes the same objective, which is to inform the public as to what happened, in an efficient manner.

4.4 The State of Oregon must pass, and the City of Portland should support, legislation to open the grand jury process to greater public scrutiny, including the release of transcripts, for officer involved shootings and deaths in police custody.

This has already been accomplished without legislation.

[7] Oregon Revised Statutes 146.155

In practice, this is already being done (see Recommendation 4.2 above). If such legislation is proposed again in the future, the City will look into it as part of our broader legislative agenda.

4.5 The Chief of Police will request an FBI review on all controversial cases involving possible civil rights violations.

Mayor Adams and Commissioner Saltzman have invited the U.S. Justice Department's Civil Rights Division to conduct a review of the Police Bureau, which is underway.

Anyone can request an FBI review of a deadly force incident for Civil Rights violations. Typically, such cases are submitted for a preliminary review prior to a full investigation. The vast majority of preliminary reviews have been declined for further investigation. The Chief of Police decides whether to request such a review on a case-by-case basis. The FBI reserves the right to open an investigation, on its own initiative, into any incident where there may be a civil rights violation.

4.6 The IPR Director or designee shall be called onto the scene of any shooting or death in custody to observe evidence collection, policies getting followed, civilian interviews, and the general background of the incident for use in the administrative (non-criminal) investigation.

Agree; current policy.

Internal Affairs enacted a Standard Operation Procedure (SOP #7) in February, 2011, which included a provision for immediately notifying the IPR Director or designee of a deadly force incident and facilitating his/her response to the scene. At the scene, the IPR member meets with the Services Branch Director, who assists in gathering information from Detectives. The SOP also requires Professional Standards to notify IPR of the date, time, and location of the Detective Division investigative briefing, which typically takes place the day after the incident. An IPR representative attends this briefing.

4.7 There should be an independent autopsy done in police shootings and deaths.

Inconsistent with state law.

State Law gives the medical examiner and district attorney for the county where death occurs the responsibility for investigating the death.[8] There is no provision in the law for independent autopsies.

5.1 All officers in the Portland Police Bureau will receive intensive and comprehensive cultural diversity and unlearning racism training approved by

[8] Oregon Revised Statute 146.095 *et seq.*

members of communities vulnerable to police abuse. This will include training officers to engage in respectful conduct towards communities of color, ethnic minorities, the poor, and sexual minorities. This training will happen prior to graduation from police academy and followed by two weeks annually of advanced cultural diversity training.

Agree, except as to time requirements; advanced cultural diversity training is part of current training program.

Advanced Academy training for officers normally includes cultural communication training. Additionally, the City mandates advanced cultural competency training for all supervisory personnel, including sworn and non-sworn supervisors and managers. In-service training has been conducted in the past few years regarding racial profiling. This training arose from the work of the Racial Profiling Committee, which included community members.

5.2 *The Police Bureau must immediately, internally address harassment and end racial profiling that occurs during stops, intervention and patrol, in part by training officers to respond only to suspicious or criminal behavior, and not to race or appearance. Officers who are found to be racially profiling will be disciplined. PPB should not profile based on how people look, how they are dressed or what kind of car they drive.*

Agree; continually seeking to improve on current practice.

The Police Bureau participated in the Racial Profiling Committee, which in 2009 was reorganized into the City's Human Rights Commission's Community and Policy Relations Committee. Discussions of these issues continue in that group.

Police Bureau members are prohibited by directive from taking any action that relies on the race, ethnicity, or national origin, as opposed to the behavior, of any individual.[9] Members are also prohibited from stopping or detaining people for traffic violations when that action is motivated by their perception of the person's race, color, gender, or national origin, or when the action would violate someone's civil rights.[10]

5.3 *Cultural training shall include a "homeless immersion" and unlearning bias against people of low income.*

Agree; concepts are part of current training.

Current cultural communication training teaches officers to treat everyone with respect and dignity, regardless of their membership in any specific group.

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[9] Portland Police Bureau Manual of Policy and Procedure, 2009, Directive 344.05, p. 120.
[10] *Ibid*, Directive 344.00, p. 118.

5.4 Create and enforce strict policies for when officers interact with individuals with disabilities.

Agree; high priority to continually improve on current policy and training regarding interactions with individuals with disabilities.

This recommendation arose in the wake of a deadly force incident involving a person in a mental health crisis. The Bureau currently has a policy covering police response to mental health facilities. This policy outlines measures intended to reduce the risk of such incidents.[11] It was updated in 2011 as an interim product of the Safer PDX project, a partnership with Multnomah County, Cascadia Behavioral Health, BOEC, advocates for and participants in community mental health services, and other stakeholders. The project is halfway through a three year evaluation of systems charges needed to reduce interactions between police and people experiencing mental illnesses. Commissioner Fritz is the City Council liaison to this project in partnership with the Portland Police Bureau.

(Author's note: Section 6 of the AMA's recommendations dealt with IPR and, as such, has been addressed by them in a separate report)

7.1 The City of Portland will adopt a policy of testing all officers involved in incidents that result in hospitalization or death of a civilian for use of controlled substances.

Random and reasonable suspicion drug testing is current policy.

The Police Bureau has a policy regarding "reasonable suspicion" drug testing. If a supervisor suspects a member is under the influence of illegal drugs or alcohol, or is impaired by the use of legally obtained prescription medication, the supervisor may require the member to undergo drug testing.[12]

The City recently negotiated a random drug testing clause into the labor agreements for both the Portland Police Association and the Portland Police Commanding Officers' Association.

8.1 The City of Portland must commit to publicly airing the facts and discussing the issues surrounding controversial deaths at the hands of police. Family, community, and police representatives must have equal and adequate time to present a full accounting, with no distractions from the core issue of police use of force by diverting attention to mental health, homelessness or other unrelated issues.

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[11] *Ibid*, Directive 850.25, pp. 442-445.
[12] *Ibid*, Directive 316.30, pp 82-86.

8.2 The City and the PPB need to release information much more quickly, concentrating on undisputed facts such as number of shots fired by police, number of times suspect was hit, names of involved officer(s), and name, age, gender and race of civilian(s).

(Responses combined for clarity) Agree; current practice.

In recent high-interest deadly force incidents, the Police Bureau has released an unprecedented level of information as soon as possible. In the Aaron Campbell case, for example, the entire investigative report was released to the public. This has had two positive effects. First, the community has been able to develop a more thorough understanding of a very complex and dynamic incident. Second, members of the Police Bureau have been able to develop a better understanding the way in which the Chief's office reaches decisions about corrective action in deadly force cases and what is expected of officers in critical incidents.

9.1 All candidates applying for employment with the Portland Police Bureau shall undergo psychological examination by a culturally diverse group of psychologists. If they have not already, the City of Portland must adopt a non-hiring policy for all candidates who fail this examination.

Agree; current practice.

The current contract for pre-employment psychological testing will be re-bid this year.

9.2 Hiring should be done to increase the diversity of the Police Bureau, by gender, race and ethnicity, at the same time the culture of the police is being changed to end the "blue wall of silence."

Agree; current practice.

The Police Bureau's Personnel Division has made significant strides in diversity in recruitment. Over 30% of recent hires were not white males.

10.1 The Portland Police Bureau will update its technology and human resources for training and field equipment to correlate with these recommended changes.

Agree; current practice.

The Training Division employs a Research and Development Unit, which researches, tests, and evaluates new technology. The unit recommends the best equipment available to the Chief's Office for consideration. The purpose of this unit is to ensure that, as our mission changes or better technologies become available, we can adopt the technology and training to meet new challenges or provide better service.

10.2 The City of Portland must fund a budget upgrade for Community Policing.

Community Policing is an approach, not a program.

Community Policing is more of an overall approach to public safety service, rather than a special program requiring special funding. The Bureau has always maintained its commitment to problem solving and community partnership, despite the budget challenges that have faced the city over the past several years.

The Bureau is in the process of developing its next five-year strategic plan, which addresses how to conduct community policing in the current fiscal environment.

10.3 Broaden the use of cameras with audio recording from a few traffic vehicles to all police cars, and ensure the cameras, microphones, and recording devices cannot be tampered with.

Agree; subject to budget realities.

The Bureau is in the process of securing the funds to begin equipping patrol vehicles at the precincts with audio and video recording equipment. The ultimate goal is to equip all uniformed service vehicles with this equipment. This is a very expensive program, which will take some time to implement.

While we generally trust our officers not to tamper with this equipment, for evidentiary purposes most systems make it impossible to delete or alter the recordings.

10.4 Invite an outside study including diverse members of the community and implement a plan for changing the culture of the Portland Police Bureau that leads to "us vs. them" thinking and the "blue wall of silence."

Agree; current practice.

Cultural change in any organization takes a long time to implement. Beginning with the Community Policing movement in the 1980s, the Portland Police Bureau has steadily moved away from the traditional model of policing towards one that emphasizes community partnership, problem solving, and accountability. Our system for resolving citizen complaints is one example of this change. We currently have higher levels of citizen participation in and oversight of our complaint and discipline processes than most other agencies in the United States.

10.5 Examine use of defensive gear such as mattresses and padded armor to defend against knives and apparently violent people in psychiatric crisis.

Agree in principle; specific items suggested are not safe preemptive tools.

Shields and pads are not generally viable options for dealing with people armed with edged weapons. They require the officer to get dangerously close to the armed person. Tools such as stronger pepper spray, longer range Taser cartridges, and long range electronic control devices (ECDs) increase standoff distance, which is safer for officers and suspects. These tools are also standard across the United States, while padded armor and mattresses are not.

The lucrative market for public safety equipment has spawned many (usually expensive) technologies that look promising according to their advertising campaign, but critical evaluation has found to be of dubious value in the real world. We will continue to seek out products that will improve the quality of our service while acting as responsible stewards of the public's money.

Citizen Review Committee Structure Review Workgroup Recommendations

(Note: Most of the recommendations from the Structure Review Workgroup concerned IPR and, as such, IPR has addressed them in a separate report. The following are responses to the recommendations pertaining to the Police Bureau. The recommendations will not be in numerical order.)

2. *Require Portland Police Bureau (Police Bureau) officers to cooperate with IPR investigations.*

This recommendation is the same as item I-D in the Police Oversight Stakeholder Committee Recommendations (see above).

3. *Return to the findings unfounded, insufficient evidence, exonerated, and sustained, and add three new findings of "policy failure, training failure, and supervisory failure."*

Disagree; past practice shows this can be counter-productive.

For many, the current three finding categories are the result of real-world experience with the process. In the past, considerable time was spent at the PRB and CRC determining whether an allegation was unfounded (meaning the incident did not happen as alleged) or there was insufficient evidence to prove or disprove it. Since the end result of either finding is the same, it seems to be more efficient to have them combined into one type.

The recommendation regarding policy, training, and supervisory failure is close to the current practice. A "Findings Cover Sheet" accompanies the RU manager's recommended finding to its review by the Chief's Office, the Professional Standards Division, and Independent Police Review. This cover sheet includes space for noting any policy, training, or supervision review needs identified by any of these entities. The Police Review Board also has the opportunity to propose policy review, identify potential training needs, and comment on incident supervision in its findings. The Chief of Police and Police Commissioner also have the ability to order a policy review based on the circumstances of any particular incident.

19. *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.*

This recommendation is the same as item II-D in the Police Oversight Stakeholder Committee Recommendations (see above).

31. *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."*

Disagree; see item 3 above. This recommendation duplicates item 3 above, except that it asks City Council to direct the Bureau to adopt the suggested findings changes.

33. *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.*

This recommendation is the same as item 1 in the Citizen Review Committee PARC Report Workgroup Policy Review and Assessment Recommendations (see above).

34. *Seek training of various topic areas including; civil rights, Police Bureau policy and procedures, problem solving and conflict resolution, and goal setting.*

Agree; current practice.

35. *Invite Police Bureau representatives to attend CRC meetings to answer policy questions.*

Agree; current practice.

This is a common occurrence at CRC meetings, which are regularly attended by Internal Affairs command staff. Members of other units in the Police Bureau often present information about their operations at CRC meetings.

39. *Work with police officers to change their view on the disciplinary process.*

46. *Discuss IPR's role and functions with police personnel.*

(Responses combined for clarity) Agree; current practice.

Internal Affairs and IPR staff conduct regular outreach to officers, often on an informal basis. IPR has been especially open to meeting with officers to explain the process and decision-making.

40. *Schedule periodic ride-along with the Police Bureau.*

Agree; current practice.

IPR and CRC members are welcome to ride along with patrol officers and members of specialty units, within reasonable safety limitations. Members of both entities have availed themselves of this opportunity.

APPENDIX A – FINDINGS COVER SHEET

FINDINGS COVER SHEET

Allegation(s) on IA# (Case Nbr) / Complainant: (Name)	Officer(s)	Finding(s)

Recommend Review Board ☐ (explain in findings memo) **RU Manager/Precinct Cmdr:** _____
Signature / Title / Date

Add'l Recommendation: Training Review ☐ Policy Review ☐ Supervision Review ☐

Concur ☐ Controvert ☐ More Investigation ☐

Comments: _____

Recommend Review Board ☐ (explain in comments) **Chief/Asst Chief:** _____
Signature / Title / Date

Add'l Recommendation: Training Review ☐ Policy Review ☐ Supervision Review ☐

Concur ☐ Controvert ☐ More Investigation ☐

Comments: _____

Recommend Review Board ☐ (explain in comments) **Professional Standards Capt:** _____
Signature / Title / Date

Add'l Recommendation: Training Review ☐ Policy Review ☐ Supervision Review ☐

Concur ☐ Controvert ☐ More Investigation ☐

Comments: _____

Recommend Review Board ☐ (explain in comments) **IPR Director/Asst Director:** _____
Signature / Title / Date

Add'l Recommendation: Training Review ☐ Policy Review ☐ Supervision Review ☐

APPENDIX B – PRB PROCESS

Pre-meeting with Director of Services (30 minutes prior to convening of board)
Director of Services meets with Peer, Citizen, involved member and union representative.

Board Convenes

1. The facilitator welcomes everyone and provides the board purpose and rules aloud (see script). Afterward, the facilitator refers participants to *informational handout* which also has a brief description of the process, agenda format and rules.

2. The facilitator asks members of the board and others present to introduce themselves by name, organization, and role (whether a voting or advisory member, investigator, or guest observer)

Presentation of Case

3. The facilitator asks the RU manager of involved member to present his or her investigative review of the investigative facts.

Additional presentations are made only in USE OF FORCE cases:
- *Detective Division provides a review of their investigation findings.*
- *Internal Affairs provides a review of their investigation findings.*
- *Training Division provides a review of the Training Analysis.*

4. The facilitator invites voting board members to ask questions re: investigative facts and provided with the opportunity to seek clarification from the RU manager (*and investigators in use of force cases*).

5. The facilitator invites the involved member to make a statement to the board.
   - Their statement must speak to the facts of the case and the policy violated.
   - The member may provide mitigating information they want the board to consider as when making their recommendation to the chief.

6. The facilitator invites only the voting board members to ask clarifying questions of the involved member.

7. The facilitator solicits the voting members and the involved member for any unresolved questions. If there are no additional questions or needs for clarification, the board proceeds to Executive Session following a five minute break (if needed).

At this time, the involved member, union representative, investigators, and Training Division officers are thanked for their participation and released from the board.

Executive Session

1. The facilitator asks the RU manager to present their review of the findings for each allegation.

    a. The RU manager provides their finding (specific to each allegation, one at a time) as to whether there is a violation of policy. The RU Manager must also identify the rule or directive violated. Findings are limited to:
        i. Unproven – Allegation not proven by a preponderance of the evidence.
        ii. Unproven with debriefing – While the allegation is not proven by a preponderance of the evidence; a critique of the complaint, conduct, or performance issue should be conducted with the member.
        iii. Exonerated – Actions of the member were within policies and procedures
        iv. Exonerated with a debriefing – While the member's actions were within the policies and procedures, a critique of the complaint with the member should be conducted.
        v. Sustained – Member found to be in violation of policy and procedure.
        vi. In policy *(Use of force cases only)*
        vii. Out of policy *(Use of force cases only)*
        viii. In policy with a debriefing *(Use of force cases only).*

    b. Following the RU manager's recommendation for each individual allegation finding, the facilitator opens discussion amongst the voting board members.

    c. At the conclusion of the discussion for each individual allegation finding, the facilitator asks the voting members of the board to provide their recommended finding for the allegation. *(The recommended findings are recorded but not identified by name of voting board member.)*

    d. The rule violated must be recorded by HR rule and/or directive number and title for each sustained allegation found to be in violation of policy and procedure

2. The facilitator asks the Review Board Coordinator to provide the employee's past history of corrective action(s) taken during the employee's career.

3. The facilitator asks the Review Board Coordinator to provide corrective action comparisons in past cases involving similar circumstances/allegations of misconduct and/or unsatisfactory performance.

4. The facilitator opens discussion amongst the voting members of the board re: their individual recommendations for corrective action. The facilitator begins discussion with the RU Manager.

5. At the conclusion of the discussion re: corrective action, the facilitator asks each of the voting members to provide their recommendation of corrective action. **The facilitator informs the voting members that they are to recommended a corrective action relevant to those allegations for which the voting member found a sustained finding (in totality of the overall case, not for each allegation).** *(These recommendations are recorded but not identified by name of voting member.)*

6. The facilitator opens discussion amongst the voting members of the board re: additional recommendations. If a recommendation is made, the voting members of the board discuss the recommendation and then vote to forward the recommendation on to the chief.

   Recommendations specific to:
   - Policy
   - Training
   - Other
   - Additional Investigation if necessary and identified during the course of the board review.
   - Specific action items
   - Debrief points (when necessary) to include:
     - Tactical development.
     - Organizational review
     - Performance analysis.

7. The facilitator provides a summary of Police Review Board's findings and recommendations.

8. The facilitator thanks the participants and declares conclusion of board.

APPENDIX C – INTERNAL AFFAIRS SOP 7

PORTLAND POLICE BUREAU
Professional Standards Division
Standard Operating Procedure

SOP #	7
Effective:	02/08/2011
Review:	03/01/2013

SUBJECT

DEADLY FORCE AND IN-CUSTODY DEATH INVESTIGATIONS

Refer: Directive 1010.10

PURPOSE

To provide procedures for case assignment, interview notifications, and interaction with the Detective Division in deadly force and in-custody death cases.

POLICY

Internal Affairs is tasked with conducting administrative investigations of all incidents in which deadly force is used by a Bureau member or an in-custody death occurs. All actions during such incidents will be reviewed for policy compliance and adherence to training guidelines. This investigation is strictly separate from any criminal investigation conducted about the incident.

PROCEDURE

1. Upon notification of an deadly force or in-custody death incident, the Professional Standards Captain (or designee) will assist the IPR Director (or designee) with the following:
   a. Notification of the location of the incident, and any circumstances known about the incident.
   b. Notification of the date, time, and location of the Detective Division investigative briefing.
   c. If the IPR Director (or designee) elects to respond to the scene, the Professional Standards Captain (or designee) will accompany them at the scene and assist in gathering information from Detectives.

2. Initial response and interview notification
   a. Upon notification of a deadly force or in-custody death incident, the IA Captain or Lieutenant will meet with the involved Bureau member(s) and/or their attorneys to determine whether each involved member used or directed another member to use deadly force.
   b. If the member is determined to be directly involved in the application of deadly force, he/she will be given a 48-hour interview notice (see Appendix A). Note that the notice for such incidents is different from the notice for routine IA interviews. The member will be required to provide a telephone number where he/she can be reached between 0800 and 1600 hours while on Administrative Leave.
   c. If the member is determined to be a witness, he/she will submit immediately to a Detectives interview per Directive 1010.10. IA

interviews of witness members will take place when the IA case investigator determines they are necessary.

d. Interviews will be scheduled as close to 48 hours in the future as is feasible. Exceptions to this may be granted for good cause (e.g., a member is hospitalized).

3. Information gathering prior to interviews
   a. As soon as possible, the IA Sergeant will assign a lead investigator, along with as many secondary investigators as needed, to the case.
   b. The lead investigator will attend the Detectives' briefing, typically held the morning after the incident.
   c. The lead investigator will obtain copies of all reports and other information about the incident from Detectives as soon as it is available.
   d. The lead investigator will prepare for the interview in accordance with SOP 19.

4. Interviews
   a. Interviews will be held in the IA office. Exceptions may be granted by the IA Captain or Lieutenant.
   b. Interviews will be conducted in accordance with SOP 19 and applicable Union contract provisions.
   c. At the conclusion of the interview, the case investigator will preserve the recording for transcription after any Grand Jury or court review of the case is completed.
   d. IA personnel will not share any information from the interview with Detectives, other non-IA personnel, or IA personnel without a need to know before any Grand Jury or court review of the case is completed.
   e. IA personnel will not share any case information developed independently by IA with Detectives, other non-IA personnel, or other IA personnel without a need to know before any Grand Jury or court review of the case is completed.
   f. Once the Grand Jury or court review of the case is completed, investigative information will be kept confidential in accordance with SOP 14.

5. Internal Affairs will notify IPR when IA receives the completed Detective Division case file for review, as well as the date, time, and location of the subsequent meeting between the Detective Division, Training Division, Internal Affairs, and IPR.

David A. Famous
Captain
Professional Standards Division