



The League of Women Voters of Portland

186416

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Independent Police Review Division Ordinance City Council Testimony January 8, 2014

The League of Women Voters of Portland urges you to postpone voting on the Independent Police Review Division (IPR) and Police Review Board code amendments until after the process related to the February 18 fairness hearing has concluded and you have considered community and Citizen Review Committee (CRC) recommendations. We believe it is premature for City Council to amend code at this time, before reviewing the specific concerns regarding certain provisions in the Department of Justice (DOJ) Settlement Agreement that will be highlighted at the fairness hearing.

The amendments under consideration today illustrate the shortcomings in the current proposals. The Settlement Agreement calls for IPR to conduct meaningful independent investigations. We understand that employment law and the union contract must be followed, but, rather than take half measures, City Council should direct the City Attorney's office to develop options for council consideration that would give IPR the authority to conduct truly independent investigations. The public has been asking for this for years and the DOJ agrees.

Although well intended, Amendment #3, requiring notification if an investigation exceeds 129 days, will not solve the problems of a 21-day appeal process. Community organizations such as the League want to give the judge the opportunity to hear our reservations about that timeline before the council alters the ordinance to incorporate this provision.

In addition to our concerns about the timing of these amendments in relationship to the fairness hearing, the League believes that the CRC's and the community's perspectives need to be taken into account. The Stakeholder Committee report contains a number of recommendations for improvements to the system. Before any action is taken, participants in that effort should be convened and asked to select for your consideration code changes that would be appropriate for adoption at this time. Furthermore, the CRC should be given the opportunity to suggest amendments it believes will improve the oversight system. Unfortunately, it was difficult for the public to be fully involved in such complex issues when the decision-making process took place over the holidays.

Council should keep in mind that the Settlement Agreement envisions the possibility of modifications. "The Parties may jointly stipulate to make changes, modifications, and amendments to this Agreement..." (Paragraph 187) Rather than acting in haste on the code changes, we urge you first to allow the judicial process to conclude and to consult with the Stakeholder Committee and the CRC.

To: Portland City Council

186416

From: Barbara Ross
2034 NE 40th #217
Portland, Oregon 97212

Re: IPR and PRB code amendments

My name is Barbara Ross and I am testifying as an individual, not representing any organization.

Amendment 3 requiring notification if the investigation exceeds 129 days is a step in the right direction, but it provides no solution to the problem of limiting the CRC to 21 days to complete the appeal process. The CRC and the IPR have not produced a new process that would fit into this time frame and it is my hope that the fairness hearing on the DOJ Settlement Agreement will give us the opportunity to address this problem. For this reason, I believe it is premature for Council to vote on the proposed code changes at this time.

Another puzzling issue not addressed in the amendments is the matter of the quorum. The Membership of the CRC is increased to 11 while the quorum is retained at 5 members. This raises the troubling possibility that at a meeting with only 5 members present, 3 persons could decide a controversial issue for the entire group. Possibly, a procedure might be worked out whereby the CRC could delegate a case to a smaller panel, but again there has been no clarification about how this might work. At this point there are more questions than answers. The IPR and CRC should work together to provide an explanation to City Council and the public of how the five person quorum would work before finalizing the code changes.

I would urge the Council to postpone any decision on the amendments and the code changes until after the judge holds the fairness hearing. There is no point in changing our city code when it is entirely possible that within the next few months the work that has been done will need to be undone. Furthermore, CRC and community recommendations should be part of the discussion. There are important and thoughtful improvements coming from them that should be considered.

Sincerely,
Barbara Ross
503 281-0345
bross@exchnangenet.net

The Independent Police Review Division: Towards True Independence

James P. Kahan, Ph.D.
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<jimkahan@alumni.reed.edu>

I present here, based on my own work on independent investigative boards, what the purpose and function of the IPR should be. I am willing, upon request, to discuss this at further length with the City Council or individual Commissioners, the City Auditor, the PPB, or the IPR.

The takeaway from this presentation

- The IPR, as presently constituted, has an incomplete focus and lacks true independence.
- The incomplete focus muddies the waters of the IPR's purpose, which impedes its independence.
- With a proper focus and independence, the IPR could function as a public assessor of police quality and as a state-of-the-art investigative body.
- The DOJ settlement and surrounding discussion provide a unique opportunity to upgrade the IPR.

The wrong focus

- 3.21.010 establishes the IPR to act on complaints of alleged misconduct.
 - This leads to an overfocus on PPB Member guilt.
 - Instead, we need to also look at other causes of less than "competent, efficient, and just policing services."
 - Such causes include inadequate policy, inadequate training and supervision, and inadequate officer selection and promotion practices.
- A better purpose of the IPR would look to the future instead of to the past.
 - Not: "How can we punish the last misconduct?"
 - But: "How can we prevent future misconduct?"

The right focus: the IPR as public safety assessor

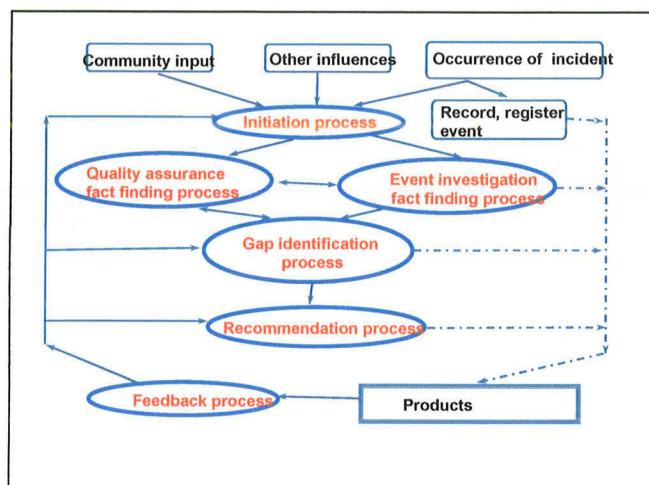
- Act as ombudsman
- More than investigations and recommendations
- Coordinate information dissemination
- Oversee, assure appropriate care for victims

Independence is necessary

- Must avoid both the reality and the appearance of conflict of interest
- Must have independent, full, and timely access to all sources of information
- Must be separate from the PPB chain of command
 - Including Internal Affairs, the Chief, and the Police Commissioner
- Must be separate from the PPB disciplinary (and reward) system
 - BUT, IPR should independently review whether disciplinary actions are consistent with findings and can recommend reconsideration
- Must be separate from City vested interests (e.g., City Attorney, City Council)

Investigative processes

- The work of independent investigative entities can be described by five processes
 - Initiation process
 - Fact-finding process
 - Gap identification process
 - Recommendation process
 - Feedback process
- Different entities execute these processes differently



Initiation

- IPR will initiate investigations on its own initiative, as well as:
 - Major incidents involving possible officer misconduct
 - Community requests
- Criteria to initiate include:
 - Severity of consequences of an incident
 - Frequency of undesirable incidents
 - Suspected quality gaps
 - Public impact of PPB policies and practices
 - Special circumstances

Fact finding leads to gap identification

- Two types of fact-finding processes: Event investigation and quality assurance
 - **Event investigation** is the more traditional process, which looks at specific incidents which might be instances of misconduct.
 - **Quality assurance** takes a longer-term perspective and looks not only at possible misconduct but “near misses” and actually doing things well.
- Gap identification is the analysis of the problem
 - **What leads to problems?** Is it policy, training, recruitment, supervision, individual misconduct, or a combination?
 - **How can we know?** Analysis is from multiple perspectives and multiple data sources.

Recommendations and feedback

- Recommendations are based upon evidence and are specific actions aimed at preventing or mitigating misconduct that are:
 - Politically and economically acceptable, and
 - Addressed to the appropriate actors
- The feedback process begins with these IPR products:
 - Reports of investigations
 - Recommendations
 - Annual reports
- IPR tracks and publishes the results of its recommendations
- Feedback maintains contact with all stakeholders
 - System stakeholders, government, victims, general public
 - Proactive outreach

Conclusion: Current version of ordinance is not ready for adoption

- IPR's focus needs refinement, which will lend clarity to its larger purpose
- Refined focus will reduce conflict amongst various stakeholders
 - Real purpose and necessity of independence will be seen and therefore more likely to be agreed upon.
 - Misunderstanding regarding the apparent involvement with disciplinary process will be resolved.
- With better understanding, IPR can move towards state-of-the-art investigation and analysis to improve Portland police competence, efficiency, and high-quality service.

The DOJ Settlement demands that some things must change. This provides a window of opportunity for making significant improvements rather than just the minimum required..

Testimony on Amended Version of IPR and PRB Ordinance

January 8, 2014

Dan Handelman, Portland Copwatch

Mayor Hales and Commissioners:

Council should not vote on the amended version of the "Independent" Police Review Division (IPR) and Police Review Board (PRB) ordinances being considered today. Council should wait until after the February 18 "Fairness Hearing." Voting now sends a message that the City joins the Department of Justice (DOJ) in refusing to hear public testimony about ways the Settlement Agreement could be strengthened.

While we do not know whether a meeting occurred between the Portland Police Association (PPA) and members of Council, as was discussed at the last hearing, we do know that no elected officials asked to meet with Portland Copwatch and community stakeholders prior to this week's vote. Another message sent: The PPA being comfortable with these changes is more important than community concerns.

Before getting to specifics, it is important to clarify what the Fairness Hearing can accomplish. At a meeting last Friday, City Attorney Ellen Osoinach seemed to be verbalizing the City's belief that the Fairness Hearing will not result in changes to the Agreement. However, the AMA Coalition's "Collaborative Agreement" lays out changes to the process for picking the Community Oversight Advisory Board (COAB-paragraph 145). This is an example of invoking paragraph 187, which allows informal changes to be made to the Agreement upon a vote of City Council and approval by the Judge. Therefore, after the repeated public testimony he is likely to hear about, for instance, the 21-day timeline for the Citizen Review Committee (CRC) to hold its hearings, the Judge could ask the DOJ and City to negotiate a new side agreement to address that issue while still entering the Agreement as a whole into the Court record.

Using that example, one amendment introduced at the last Council session directs a report be given to the Auditor and Police Commissioner when an investigation lasts more than 129 days. The intention of this amendment is to preserve the 30-day window complainants currently have to file an appeal of Bureau findings, plus the DOJ-required 21 day timeline for that appeal to be held, within the overall 180-day timeline for investigations. By enshrining this timeline in the ordinance, Council is conceding that CRC's appeal process should stay within the 180 days and that the 21 day timeline is valid. Commissioner Novick was clear on the record that it is the DOJ refusing to move this timeline. The City should give the community and the Judge the chance to change this provision rather than create City Code that could have to be changed again in a few months.

Similarly, another amendment to the paragraph about IPR "independent" investigations clarifies the Chief needs to order officers under investigation to both show up and answer questions from IPR. But this amendment assumes that the scheme drawn up between the October and December Council sessions that leaves IPR dependent on the Bureau to conduct investigations satisfies the DOJ's order for IPR to conduct "meaningful" investigations. As we argued earlier, the meaningful solution to this would be to propose an amendment to the City Charter to allow IPR to compel testimony.* The City could get such an amendment on the ballot by May if language is ready by early February. Such a charter change would not be a violation of the DOJ Agreement but rather a means to properly fulfill it.

It cannot be stressed enough how little will change if the Bureau still has a hand in these "independent" investigations, including having a member present at all officer interviews. Director Severe repeated Friday that IPR is more likely to use the ability to compel officers (through the Bureau) for cases involving high-ranking officers, and not for every community generated complaint. This does not do much to boost community faith in the IPR system.

The IPR Director has stated that these changes need to be made right away so as to help as many people as possible. Since many people could have been helped over the last 12 years if a better system had been instituted in the first place, this is not a good reason to hurry these inadequate changes. Many more people can be helped in the future if Council gets this right.

(continued)

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The third amendment calls for the Bureau to put a cumulative report of discipline imposed that is outside the range recommended in the “discipline matrix” in their annual report. While a useful idea, this does not address the original intention, which was for the Chief to publicly report his reasons for applying discipline that was not what was recommended by the PRB.

We also have concerns that the expansion of CRC to 11 members with a legal quorum of 5 could allow for a small faction of the Committee to make decisions without the knowledge or consent of the majority of the group, creating unnecessary tension and confusion. We urge you to look at our proposal to instead require CRC take a vote (perhaps by a 2/3 majority) to delegate its authority to any smaller panel.

We repeat here that the intention of this ordinance appears to be to (inadequately) strengthen the professional staff at IPR but give no more authority to the civilians on CRC. The DOJ-recommended ability for CRC to direct IPR or Internal Affairs to conduct more investigation would benefit many people and should be included in any changes to the IPR ordinance.

We’ve outlined elsewhere other aspects of the Agreement that could be fixed by invoking paragraph 187, including but not limited to the ability to appeal shootings and deaths cases, and at the very least removing the CRC’s deferential standard of review from the Agreement so it can be changed sometime in the next five years. While the COAB will be monitoring the implementation of the Agreement, it is unlikely they will take action to remedy the problems we’re addressing here until they manifest themselves as problematic in the future— which they will. Rather than wait for those problems to arise, the City should hear out the community and the Judge after the Fairness Hearing and delay action on this ordinance.

Thank you again for your time,

dan handelman
portland copwatch

* Incidentally, the 2010 Stakeholder Committee report suggests that a Charter change could be necessary to allow the Auditor to have independent legal counsel. The Auditor supported this concept in her response letter to the Committee.

Albina Ministerial Alliance Coalition for Justice and Police Reform
c/o Allen Temple
4236 NE 8th Ave
Portland, OR 97211
503-287-0261

**Testimony of the AMA Coalition for Justice and Police Reform on
the IPR and Police Review Board ordinances
January 8, 2014**

To the members of City Council:

The AMA Coalition for Justice and Police Reform wants to go on record expressing concerns about the current version of the changes to the Independent Police Review Division and Police Review Board City Code. While we were told by IPR Director Constantin Severe that IPR would have the power to compel officer testimony and we proceeded with that as reliable and in good faith, the City Attorney has reversed that opinion and that helps to continue a system where the police are still involved in investigating the police, thus further eroding "meaningful independent investigations" conducted by IPR. We have consistently been working toward an independent review process that does not rely on the Bureau, which will help gain the trust of community members with complaints of misconduct. Even with the amendment that says the Chief has to order officers to attend the IPR interview and answer questions, this does not go far enough towards "meaningful independent investigations."

The concerns are the same with the amendment which calls for explanations when investigations go past a 129 day timeline (rather than the original 180 day timeline) to complete investigations. While this does provide for 30 days for a complainant to appeal Bureau findings and 21 days for the Citizen Review Committee to hear the appeal, it seems that the independent volunteers on the CRC should be given 60 days to complete the appeal process. That would only be fair after the paid investigators from IPR and Internal Affairs have 129 to 180 days prior to the appeal being filed.

Also the amendment which requires the Chief only to list the cumulative total of how many times his discipline varies from the "discipline matrix" does not meet transparency goals nor increase community trust that infractions by officers are being dealt with fairly. Such changes should not be tucked away in an officer's personnel file which are barred from public disclosure, what is the fear? Chief Reese has made a number of poor decisions including failure to fire Captain Todd Wyatt when the Police Review Board voted 5-1 in favor of termination. He then put Wyatt, found guilty of improper physical contact with female subordinates, in charge of investigating sex crimes. He has also promoted repeat subjects of lawsuits such as Sergeant Leo Besner and Captain Mark Kruger, what is the logical reasoning for these beyond "everybody deserves a second chance"? When opportunity to help build community trust to hire a civilian to an upper management position, Chief Reese hired his friend to fill a key upper management position (who then had to resign while under investigation) and passed over qualified officers of color for promotions.

Even if Council passes today's changes, we want you to reflect on the idea that more changes are needed and what is voted on today might get changed again even in the next few months as we work towards transparency, accountability and truly achieving "meaningful independent investigations" to correct our "Byzantine and self defeating accountability system" currently in place..

Thank you,
Dr T Allen Bethel, President, Albina Ministerial Alliance
Co-Chair, Albina Ministerial Alliance Coalition for Justice and Police Reform

INDEPENDENT POLICE REVIEW CODE CHANGES

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|-----------------------------------------------------|-------------------------------------|-------------------------|
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| ✓ KRISTEN CHAMBERS | NATIONAL LAWYERS GUILD | |
| ✓ Kayse Jma | COMTAN FOR INTERCULTURAL ORGANIZING | |
| ✓ DAN HANDELMAN | PORTLAND COPWATCH | |
| ✓ DEBBIE ALONA | LEAGUE OF WOMEN VOTERS | |
| BECKY STRAUS | ALL OF OREGON | |
| ✓ Brian Barnett | 7633 N. INTERSTATE 97217 | babraugh@hotmail.com |
| ✓ JAMES KAHAN | 2835 SE LAMBERT 97202 | jmkahan@alumni.reed.edu |
| ✓ Daryl Turner | 1313 NW 19 th AVE 97209 | |
| ✓ ^{Sylvia} Sylvia Zmjeser | 16000 SE Powell Blvd #27 97236 | arriela@heavenet.com |
| ^{NO} BRUNO AMICCI | 2887 LWR BEECHMAN RIDGE LOD 97304 | BAmicci@gmail.com |

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James Paul Kahan, Ph.D.
2835 SE Lambert Street
Portland, OR 97202
jimkahan@alumni.reed.edu

**Testimony to the City Council, City of Portland
Hearing on Proposed City Code Changes
Wednesday 18 December 2013**

Good afternoon. My name is Jim Kahan, and I am here to testify regarding the proposed code changes submitted by the Office of the City Auditor. For the past four years, I have been involved, in a variety of ways, in the nexus of law enforcement and mental health in Portland. During my career at the RAND Corporation, I was a policy analyst and conducted a considerable amount of research on public safety.

During the last four years, I have been struck a number of times by how Portland sometimes uncomfortably resembles the society of George Orwell's dystopian novel *1984*. For several years, the Portland Police Bureau had a "Mobile Crisis Unit" that was, by policy, not permitted to attend to emerging crises; fortunately, that has been changed within the past year. Multnomah County has a "Crisis Assessment and Treatment Center" that cannot be used for assessment or treatment during a crisis. And, since its inception, the Independent Police Review Division of the Portland City Auditor's Office has never been permitted to conduct independent police reviews.

The situation in Portland was bad enough so that the U.S. Department of Justice (DoJ) intervened, making recommendations for change that are currently mired in lawsuits. Many of these recommendations did not first see light in the DoJ study. For example, when I served on the police Crisis Intervention Training Advisory Board, we made recommendations for changes to the police on such important issues as officer training to respond to people in mental health crisis and use of taser. These were consistently rebuffed until the DoJ demanded the same changes.

That there is a need for independent review of police behavior is, with some exceptions, not questioned. The proposed City Code changes under discussion today arise from an attempt to take Portland forward from its all-too-real *1984* atmosphere to the present day. The version before you today is considerably watered down from the one presented in October—so much so that it is best to wait until the dust settles in the pending DoJ settlement suit, and in particular, the outcome of the fairness hearing that will be part of that legal process. It is possible that, in response to community concerns, the judge could choose to alter the proposed settlement to accommodate some of the changes desired by the community, including items in current proposed code changes. From my own experience studying how investigative work can successfully address the causes of public harms, an important finding is that independent review means exactly that—the ability to look where scrutiny is needed, unimpeded by vested interests.

An oft-stated barrier to reform is that the proposed changes run counter to some features of the City's contract with the police unions. This may be true, but even if so, it begs the question of why the City Council has not addressed this issue already. This is a known problem and therefore should have been assertively addressed in the current contract renewal. That it was not, in the face of considerable public efforts calling for change, speaks ill of the City's negotiators.

In summary, as the investigations of the City Auditor, U.S. Department of Justice, and independent consultants make clear, reform of the Portland Police Bureau is needed. Finding out what to reform and how to reform it cannot be adequately identified absent independent review. The IPR is the appropriate agency to conduct such reviews, and its hands should not be tied by vested interests who fear change.



The League of Women Voters of Portland

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Portland Economic
Study Chairs

Independent Police Review Division Ordinance City Council Testimony December 18, 2013

Any decisions on the proposed changes to the Independent Police Review Division (IPR) and Police Review Board ordinances should occur after the completion of the fairness hearing. The potential exists that the judge overseeing the Department of Justice Settlement Agreement will make changes to some of the provisions after hearing the public's concerns. Furthermore, as we stated at the October hearing on this issue, the Police Oversight Stakeholder Committee recommendations should be revisited and, if appropriate, incorporated into city code along with those required by the Settlement Agreement.

It is disappointing that, although the Settlement Agreement calls for IPR to conduct meaningful independent investigations, a Police Bureau representative will need to be present at IPR interviews in order to compel officer testimony. It is hard to see why in October, there was an understanding that IPR could compel officer testimony, but now that is not the case. Many in the public have a desire to see IPR routinely conduct truly independent investigations, especially now that it has adequate staffing.

The proposed IPR amendments include a 180-day time frame for investigations, as required by the Settlement Agreement. One of the outstanding issues that should be addressed is the unrealistic 21-day timeline for Citizen Review Committee (CRC) appeals that will fall within those 180 days. In anticipation of the imposition of the shortened appeal window, the CRC recently has made attempts to speed up the process. This has meant extra meetings and less time to review case files. Two of the newer members resigned, citing an unmanageable workload. We fear it may become difficult to involve citizens from diverse backgrounds if the workload becomes too great.

Furthermore, a shorter timeline may jeopardize two of the most effective additions that have been made to the process: the Case File Review and the Appeals Process Advisor (APA). The Case File Review occurs after CRC members have read the files and before an appeal hearing is scheduled. At the review, the CRC discusses questions or concerns it has about the investigation and decides if additional work is needed. Resolving these issues before an appeal hearing has resulted in more successful outcomes

Appeals Process Advisors are former CRC members who are available to assist appellants or officers in understanding the process and presenting their cases to the CRC. With such a short timeline, it will be difficult if not impossible for the APAs to schedule sufficient meeting time to effectively advise the appellant or officer.

As you can see, there are many issues that still need to be addressed. We encourage you to take a comprehensive look at the IPR ordinance after the fairness hearing takes place.

Changes to Independent Police Review Division Too Weak

Testimony by Dan Handelman, Portland Copwatch

December 18, 2013

To: Mayor Hales and Commissioners Fritz, Fish, Novick and Saltzman

Mayor and Commissioners:

The revised proposed changes to the Independent Police Review Division (IPR) are a huge disappointment, as they are composed of a watered down version of the October 23 proposal—which the community complained did not go far enough. Because so many of the issues are connected to the DOJ Agreement, any decision about changing IPR should wait until after the Fairness Hearing.

The IPR is claiming these changes are being made in conjunction with the DOJ Agreement— item #2 on the cover ordinance reads:

“The settlement agreement between the [DOJ] and the City requires the [IPR have] the ability to conduct meaningful independent investigations of police officer misconduct.”

Community testimony at the Fairness Hearing, expected to be held sometime in February, could prompt the judge to order changes to the DOJ Agreement that better fix Portland’s troubled oversight system and clarify issues around use of force. Because the changes to IPR could be affected, and because the judge should not be influenced in his decision by “facts on the ground”— changes made to the IPR in order to get ahead of the Agreement’s ratification— the City should delay voting.

Also, as mentioned previously, there are dozens of other changes to the IPR/CRC system that have been formally proposed to the City repeatedly but which are not represented in this ordinance. When the Council sets about to change the IPR system, you should do it all at once and get it right.

Here are some of the items that have been changed since the last hearing:

—When IPR conducts independent investigations, rather than having IPR compel officers to testify (as in the previous proposal), a Bureau employee will have to be present at the interview to compel the officer. This is not much different from the “crazy” way the IPR Director described how things work now where an Internal Affairs investigator has to instruct an officer to answer questions one at a time. Note that the DOJ asked for IPR to be able to conduct “meaningful independent investigations,” and this work-around is not sufficient.

Portland Copwatch has argued for years that the best way to make IPR truly independent and give it power to compel would be to make a charter change creating a police oversight body with such powers.

IPR is saying its independent investigations will mostly be focused on the rank of Captain and above, and not cases involving community members. This is what we warned against at the last hearing— giving IPR powers that it doesn’t intend to use. Many civilians do not trust the system because the most important part of the investigation— talking to the police officer involved— is done by Internal Affairs. IPR’s concept could be useful for recent issues involving Assistant Chiefs Kuykendall and Hendricks, and Captains Wyatt and Kruger. However, limiting investigations in this way would let slide, for instance, Lieutenant Kaer, who left his precinct and shot and killed a man in a car across from his sister’s house. Though the City paid out \$200,000 in that case, the internal investigation led to a firing that did not hold up in court.

—When the Chief changes discipline proposed by the Police Review Board, instead of having to explain himself in every instance in a letter to the Commissioner, he will now only have to explain to the officer if the finding differs from the as-yet-unpublished “discipline matrix.” Thus, if the matrix says you could give the officer a demotion or you could fire him/her, the Chief won’t have to explain ignoring the Board’s recommendation if he rejects termination for a lesser discipline.

(continued)

PORTLAND COPWATCH

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Furthermore, the changes do not address the issues in the DOJ Agreement which will either empower the Citizen Review Committee (CRC) or tie its hands:

—The DOJ Agreement calls for CRC to be able to order IPR or Internal Affairs to conduct more investigation on appealed complaints; this is not in either version of the ordinance.

—The DOJ Agreement would limit the CRC to holding an appeal within 21 days after a person files and this has to be part of the 180 day for all investigations. Nobody believes this is an achievable goal. CRC hearings currently take place 60-90 days after the appeal is filed and CRC members are all community volunteers.

To its credit, the new code creates some flexibility in the 180 day timeline. It says someone has to report to the Police Commissioner when the investigations take longer, rather than setting a firm upper limit. It also clarifies that officers will not be let off the hook if the investigation lasts more than 6 months.

—The DOJ Agreement locks in place the CRC's deferential standard of review, saying they must decide if the officer's commander was reasonable to find the officer within policy, rather than making their own decision. That language came from the IPR ordinance and it is not being changed.

—The DOJ Agreement states that people involved in shootings/deaths incidents (or their survivors) can't appeal to the CRC. The IPR ordinance again is silent on this issue.

We urge you once again to delay any vote on this matter until after the Fairness Hearing.

Thank you for your time
dan handelman
Portland Copwatch



National Alliance on Mental Illness

nami

Multnomah

186416

Board of Directors

October 25, 2013

Terri Walker
President

Dear Mayor Charlie Hales, Commissioner Nick Fish, Commissioner Amanda Fritz, Commissioner Steve Novick, Commissioner Dan Saltzman,

Melissa Gonzales McNeal
Interim Secretary

Barbara Besand

Sylvia Zingesser

Alice Herrin

Bud (Jerry L.) Manley

Ron Sarna

Terri Pelham

Paul Lipscomb
Interim Executive Director

NAMI Multnomah family members and peer members are concerned with the lack of support for Independent Police Review (IPR) by the Portland City Council. On occasion, many family members and peer members have had disastrous interactions with Portland Police Bureau's police officers when our loved ones were in a mental health crisis. For the record, most of our interactions have been good, for which we are thankful, but the interactions that resulted in beatings and/or in-custody-deaths remain strong in our minds while we advocate for our family members who live with mental illness.

By not allowing IPR to set a standard operating procedure to properly investigate complaints by citizens or incidents that IPR has questions about, we are in the same place we have been for years. Nothing really changes; and in the absence of reform, abusive officers remain on the streets, deficient training procedures are not improved, and faulty policy is not remediated.

The City of Portland has to change how investigations of police misconduct are done and the citizenry has to be kept completely informed of how investigations are conducted and how decisions regarding the resolution of alleged misconduct are resolved. If policies and training procedures are in order and clearly being followed, the City of Portland must look at the possibility that some officers may not be suited for street duty. While we understand that there are in place agreements with the police unions that make it difficult to simply legislate reforms, this matter is sufficiently serious and real that these agreements must be revisited and themselves reformed.

We therefore urge you to accept all five of the IPR's recommendations as presented at the City Council meeting, Wednesday afternoon, October 22, 2013.

Sincerely,

Terri Walker
NAMI Multnomah Board President

Sylvia Zingesser
NAMI Multnomah Board Member / Advocate



CIO testimony on Independent Police Review Division code changes

December 18th, 2013

Mayor Hales and members of the City Council,

Thank you for having me today. For the record, my name is Kayse Jama, Executive Director at the Center for Intercultural Organizing. I'm here today to urge you to delay your decision on this proposed package of changes to the Independent Police Review Division (IPR) until after the District Court has heard from the community on the fairness of the Department of Justice settlement agreement.

My organization wholeheartedly endorses the mission of the IPR, but we recognize that the City has yet to give them the tools they need to succeed. To be truly effective, the IPR must be independent and empowered to review police conduct (as the name implies); unfortunately, the Division is neither. The idea of police accountability isn't new, and I hope every one of you recognizes that the system as it exists today is broken. As I said this morning, our communities' trust in our police is at an all-time low, and that's not some abstract policy argument: people are hurting, and we deserve better.

The first proposal heard by this Council to reform the IPR was a very, very modest first step toward real public oversight of the Police Bureau. The proposal in front of you today, by contrast, barely qualifies as a change from the status quo. First, it entirely fails to address some of the community's most significant concerns and demands; for example, there's no mention of the so-called "48-hour rule," which the federal Department of Justice has condemned as a barrier to timely investigation of misconduct allegations. Similarly, the proposal doesn't allow IPR investigators to fully and directly question officers, which is critically necessary to keep its investigations truly independent.

Another key to building an accountable police force is ensuring that discipline is consistent, fair, and transparent in cases of misconduct. We have no faith that this is the case today. The original proposal before the Council affirmed that idea of accountability by requiring the Chief of Police to publicly explain any discipline decision which falls outside of the Bureau's guidelines; the new proposal's requirement that the Chief merely explain discipline decisions to the officer is unacceptable.

Given the urgency, why do we think the City should wait? To put it simply, the illusion of change is worse than no change at all. The upcoming District Court hearings will give the public a

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chance to weigh in on police accountability in Portland, and could be a powerful venue to strengthen the City's accountability systems. I urge each and every one of you to support real police reform, and delay your vote on this package while working to make it stronger.

IPR Code Change Comparison Chart – 12/18/13

| Issue | Oct 23 Proposal | Current Proposal | Rationale |
|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| IPR directly interviews PPB employees during investigations | IPR compels officers and provides Garrity warning to PPB employees | PPB liaison compels and provides admonishment to PPB officers/employees. Section: 3.21.220 Page: 24 | Per City Attorney memo: only Chief or Mayor has the ability to compel officers and provide effective Garrity warning. |
| Consistency in discipline | Chief provides rationale for different findings or discipline from PRB to Police Commissioner. | Chief is required to provide a rationale when final discipline is outside of range recommended by discipline guide. Section: 3.20.140, Section H, #4 Page: 7 - 8 | Provide objectivity, consistency in discipline |
| Transparency in OIS/ICD reports | Default that officer and witness names would be un redacted in public reports. | Officer and witness names included when City has already publicly released. When names not previously released, names may be included if in the public's interest. Section: 3.20.140, Section I, #2 Page: 8 | Comply with Oregon Public Records law ORS 192.501(12) |
| Timeliness of Investigations | Explicit requirement that all administrative investigations are completed within 180 days. | When an investigation exceeds 180 days, Police Commissioner notified and provided explanatory information. Section: 3.21.120, Section G, #8 Page: 19 | Wanted to avoid the risk that a case that went over 180 days would be dismissed. Mirrors language in the DOJ agreement. |

186416

Moore-Love, Karla

From: Osoinach, Ellen
Sent: Wednesday, January 08, 2014 2:05 PM
To: Moore-Love, Karla
Subject: FW: NLG Testimony for Today's Council Meeting
Attachments: NLG Testimony re IPR Proposal 1.8.14.pdf
FYI

From: Kristen Chambers [mailto:kristenachambers@gmail.com]
Sent: Wednesday, January 08, 2014 2:00 PM
To: Osoinach, Ellen; Hales, Mayor; Commissioner Saltzman; Commissioner Fritz; Commissioner Fish; Novick, Steve; Severe, Constantin; Griffin-Valade, LaVonne
Subject: NLG Testimony for Today's Council Meeting

Dear Mayor Hales, City Commissioners, Auditor Griffin-Valade, Mr. Severe, and Ms. Osoinach,

Attached is the testimony that I had planned to present to you today when you consider the second reading of the amended IPR proposal. Unfortunately, I came down with an illness this morning and will not be able to make it in person. I hope you will seriously consider our brief written testimony, attached to this email, before you make any decisions on these issues.

Sincerely,

Kristen Chambers
Policy Board Member
Portland National Lawyers Guild

1/9/2014

NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER



POST OFFICE BOX 40723
PORTLAND, OREGON 97240-0723

MEMORANDUM

DATE: January 8, 2014

TO: Mayor Charlie Hales, mayorhales@portlandoregon.gov

CC: Commissioner Dan Saltzman, dan@portlandoregon.gov
Commissioner Amanda Fritz, amanda@portlandoregon.gov
Commissioner Nick Fish, nick@portlandoregon.gov
Commissioner Steve Novick, steve.novick@portlandoregon.gov
Constantin Severe, constantin.severe@portlandoregon.gov
LaVonne Griffin-Valade, lavonne.griffin-valade@portlandoregon.gov
Ellen Osoinach, ellen.osoinach@portlandoregon.gov

RE: Proposed Amendments to IPR Ordinance -
Compelled Officer Testimony

The National Lawyers Guild presents this memorandum of law to the Portland City Council as written testimony addressing the second reading of IPR's proposed ordinance amendments. In general, we believe the City needs to make fundamental changes to create a truly independent oversight system. A truly independent review body is one that is sufficiently resourced and staffed, and is empowered to recommend discipline and conduct independent investigations of all serious claims of misconduct. We do not believe that IPR's proposed ordinance changes move toward this goal. Specifically, we believe Section 3.21.220 hinders IPR's independence. We also share the concerns our community partners have expressed, including Copwatch's testimony about the CRC quorum and the cumulative report of discipline outside the range recommended.

Section 3.21.220 has been presented as if it is the best that we can do to compel officer testimony when conducting IPR investigations. It is not the best we can do. Members of the NLG met with IPR Director Constantin Severe and City Attorney Ellen Osoinach on January 3 to discuss this very issue. We all agreed that IPR's method of compelling officer testimony is

restricted to some degree by the constitution. However, 3.21.220 is more restrictive than necessary. The current proposal requires a bureau member to be present for any interview by IPR, in addition to the officer being interviewed and his or her union representative. As we explained more fully in our December 31, 2013 memo to you, San Francisco's oversight agency has conducted independent interviews of officers for decades without a second officer (not the one being interviewed) present. Neither IPR nor the City Attorney has offered an explanation of how our system is different than San Francisco's or why the current proposal must be more restrictive. Such explanations should be provided today or in the near future, and we urge Council to take steps to eliminate any such restrictions.

Allowing an additional bureau member, other than the officer being interviewed and his or her union representative to attend an IPR interview destroys independence. The presence of an additional officer inherently influences the entire interview, as the interviewee will likely alter his or her testimony without being aware of doing so and the interviewer may will likely alter his or her questions without being aware of doing so. Furthermore, true independence includes the perception of independence. The community and IPR complainants will continue to question the independence of IPR where PPB members other than the interviewee are present throughout the process.

Building the credibility of IPR in the community is critical to its success. If this proposal is approved, most citizens will continue to distrust the process. Eliminating the filter between IPR and an officer being interviewed is necessary to enhancing the credibility of IPR among stakeholders and the community in general.

We strongly urge Council to reject the current version of 3.21.220 and request a new provision that allows IPR to conduct officer interviews and compel testimony as independently as the law will allow. We also recommend that Council wait to take any vote on the IPR proposal until after the Fairness hearing, where these issues will be further addressed by the community.