



## COMMENTS on Police Review Board Member appointments

September 10/11 2019

Mayor Wheeler and Commissioners Eudaly, Fish, Fritz and Hardesty

Portland Copwatch does not have any particular concerns about the individuals being presented as new members of the Police Review Board for your consideration tomorrow, Wednesday, September 11 at 10:15 AM (or thereafter).

<https://www.portlandoregon.gov/auditor/article/741449>

The PRB is the body that hears (a) cases about officers found out of policy which could lead to time off or more serious discipline (5 member boards) and (b) deadly/excessive force cases (7 member boards).

We are concerned, however, that other appointments to similar boards come before Council in the forms of Resolutions or Ordinances, and this particular set of names is listed as a "Report." Due to Mayor Wheeler's blanket policy against taking testimony on Reports, we fear this means many in the community whose lives will be affected by the decisions of the PRB will not have a chance to comment.

As we have noted before, this pool of civilians rotates onto the Board one at a time, so it is technically incorrect to refer to them as members of the Board since to two of them will ever be in the room at the same time for case reviews and votes.

We've included below the comments we made on August 28 when the PRB's makeup for cases involving use of force were clarified, as that testimony touches on other issues around the PRB that Council should address. The most important one we hope will be raised at the Sept. 11 Council meeting is the idea for the PRB civilian pool to hold public meetings twice a year in conjunction with the release of the promised semi-annual PRB reports.

What we have noticed about the pool of candidates:

—Of the 13, there are 7 females and 6 males.

—Whereas in 2016 there were six current or former attorneys, it looks as if there are only three this time (and one who is studying law) While legal insight is useful, the PRB reviews policy violations which can be more restrictive than what is legal.

We also want to point out that language from the Council item that led to appointments in 2016 which is factually inaccurate appears again this time. The paperwork states that "the Police Bureau will select citizen members for the Police Review Board from a pool of volunteers recommended by the City Auditor and appointed by City Council." However, City Code says the members will be nominated by the Auditor and appointed by Council, not that the Bureau has any say in the appointees whatsoever, except to recommend removal. (City Code 3.20.140)

It's disturbing, then, that among the panel of people who selected the nominees is Captain Cliff Bacigalupi of Internal Affairs/Professional Standards Division.

We look forward to a time when there can be a larger discussion about the PRB, perhaps including the members you are appointing Wednesday.

One last note: We are now nearing mid-September and the Bureau has not released the first of its two required PRB reports yet this year.

dan handelman  
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(continued)

(forwarded comments from August 27/28)

To: Mayor Ted Wheeler and Commissioners Eudaly, Fish, Fritz and Hardesty:

Portland Copwatch has no strong opinion about the language of the proposed changes to the Police Review Board ordinance,\* though we have many questions about the practical nature of fulfilling its intent and deep concerns that the PRB ordinance keeps getting “tinkered around the edges” when there are large issues that Council keeps ignoring.

The change being made requires that when any case involving officer Use of Force gets before the PRB, one of the two civilians who sit on the Board will be a member of the Citizen Review Committee. This is consistent with the US DOJ Settlement Agreement.

However, the CRC already sits on Police Review Boards in cases of deadly force, and nearly every time in the past two years, the same member has been attending. Chair Kristin Malone has spoken repeatedly at CRC meetings about how the Bureau’s reluctance to provide the case materials to CRC members outside of certain business hours has made it very difficult for others to set aside time to review the files and then sit at the hearing. One solution would be to overhaul the Board so it is not fully internal to the Police Bureau, where civilian staff could be more flexible. Another would be to direct the Chief and PPB to allow CRC to have case files digitally; we believe a secure portal was set up for CRC appeal hearings and/or a delivery system involving digital media was created. It’s not clear why this can’t be done for the PRB.

Another issue, though, is one PCW has brought up with Council, IPR and the Auditor over and over— that the CRC is populated almost exclusively by young professionals who work full time and thus do not have flexible schedules. Most PRBs are heard during working hours. Intertwined with both of these problems is that IPR is not successfully recruiting retired Portlanders to sit on the board. Where CRC once had a majority of retired persons, causing us consternation, now there are no members over the age of 50.

Additionally, the PRB code has been modified a number of times over the last few years in the wake of the DOJ Agreement. However, few of the suggestions Portland Copwatch and others have put forward have been considered or adopted. Here are items we sent in September 2018 at the last update:

—include the requirement that the PPB do further investigation if the PRB asks for it (which is in the original Settlement Agreement from 2012)

—allow the person who was harmed (or their survivors) to speak to the Board

—open the PRB to the media and/or the public

and

—require the civilian members to hold public meetings twice a year when Police Review Board reports are published.

The Council is poised to appoint (or re-appoint) a slew of people to the Police Review Board sometime in September this year. This is a great opportunity to ask them to hold such meetings, since these people are supposed to be the community’s voice in the behind-closed-doors process.

This brings up another issue, though, which is that the PPB used to publish the PRB reports regularly in January and July each year. Last year they were published in September and December. The code requires two reports per year. It’s now the end of August and no report has been published in 2019.

We hope the Council will consider taking bolder steps to reform the Police Review Board than the bare minimum “checkbox” to finish off the DOJ Agreement. After all, the DOJ has made it clear many times that the City can create a system which is stronger than what is laid out in the Agreement, just not go backward.

Thank you for your time

dan handelman and other members of  
portland copwatch