

TESTIMONY
POLICE REVIEW BOARD

6:00 PM

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

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✓ <i>Ms. Allen Bethel</i>	ALBINA MINISTERIAL ALLIANCE	
<i>Judge Pearce</i>		
✓ <i>Ms. Marcus Mundy</i>	URBAN LEAGUE	
✓ <i>Martha Beember</i>	LATINO COMMUNITY	
✓ <i>Rev. Dr. LeRoy Harper</i>	AMA COALITION FOR JUSTICE	
✓ <i>Joyce Darris</i>	AFRICAN AMERICAN ALLIANCE	
✓ <i>Jan Ann Bowman</i>	OREGON ACTION	
✓ <i>Mark Keener</i>	NATIONAL LAWYERS GUILD	
✓ <i>Brenda Sifuentes</i>	PORTLAND JOBS WITH JUSTICE	
✓ <i>Alan Handelman</i>	PORTLAND COPWATCH	
✓ <i>Rebbie Ciona</i>	LEAGUE OF WOMEN VOTERS	
<i>Chris D'Conor</i>	MENTAL HEALTH ASSOCIATION	

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✓ Kevin Howard		
✓ Aloud Cox	215 NE Morgan St 97211	COX_7999@MSN.COM
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✓ Joannas Kindred	3842 SE 122nd p.o. 97236	joannaskindred@yahoo.com
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✓ Derry Jackson		
✓ Lew Lewis Ward		
✓ Lisa Haynes		

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✓ Brian Barnett	7038 N. Fairport Pl 97217	
✓ Rowan Griffith	97202	
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✓ Rick Miller		
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^{late} Jeana Frazzini	4263 SE Belmont St 97215 BASIC RIGHTS oregon	jeana@basicrights.org

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✓ Mikal Shabazz		
✓ Scott Price		
✓ Moses Rosen		

freedom socialist party

portland local • 819 n killingsworth, portland, oregon 97217 • 503 240-4462, fax: 240-4463, website: www.socialism.com

Testimony for Portland City Council Hearing
March 31, 2010
Brian Barnett, Freedom Socialist Party

Good evening, Mr. Mayor, City Council members and concerned community members.

My name is Brian Barnett, a long time resident of North Portland and member of the Freedom Socialist Party. For decades FSP has called for an Independent and elected Civilian Review Board with authority to investigate and discipline police officers.

The proposed appointment guidelines state that the Review Board members must represent the entire community; demographically and geographically. This should mean that poor and people of color will be well represented, since they are the favorite targets of our uniformed “public servants”. We believe that only an elected board can achieve this. The body itself must have the authority to investigate with subpoena power and discipline individual cops who are found guilty of violating civilian’s civil and constitutional rights, which of course includes use of deadly force. The Board should have an independent special prosecutor and public funding.

We believe that real accountability would reduce police abuses and save families the grief that results from deadly force criminal killings. This real accountability is worth demanding and fighting for. Although, frankly, such incidents will be a fact of life as long as we have an economic system that exploits the majority for the benefit of the few, which is one of the reasons I am a socialist.

FSP has been a part of the recent actions of peaceful but angry protests against the recent murders of Aaron Campbell and Jack Dale Collins. We are in solidarity with Portlanders active in pushing the City Council to increase police accountability and transparency, although we think the proposed changes focusing on a more active IPR will not be adequate to achieve these goals.

Thank you

March 31, 2010

Dear Community Leaders;

Like all our fellow citizens, NAMI Multnomah and its members wish to express our views on the issues surrounding the interaction of citizens of Portland and the Portland Police Bureau. NAMI Multnomah has studied the issues carefully and asked members to discuss the issues and draft a policy statement. That statement is included in this letter.

The statement reflects the collective position of our membership and was drafted with the input of people representing a large body of experiences both personally and professionally regarding the issues involved. Because we represent families and individuals with mental health issues, we have additional expertise in situations where friends and family members are in crisis. That knowledge and expertise formed the basis for the creation of this policy statement.

NAMI Multnomah has a long history of support, education and advocacy on issues of mental health as well as many volunteers that have given their time and efforts with many activities surrounding these issues. NAMI members stand ready to continue their involvement in the process of healing our community and working toward steps that will help provide solutions to the events that have damaged our sense of community.

With those thoughts in mind we offer the enclosed statement:

Margaret Brayden, NAMI Multnomah E.D.
Terri Walker, President NAMI Multnomah Board of Directors

NAMI Multnomah Advocacy Committee Co-Chairs:
Sylvia Zingeser, NAMI Multnomah representative on Crisis Intervention Team
Don Moore, Past President NAMI Multnomah Board of Directors

NAMI Multnomah Statement on Police Training and Procedures in Portland, OR

March 31, 2010

As members of NAMI Multnomah, Portland Metro chapter of the National Alliance on Mental Illness, we seek to protect our loved ones who live with mental illness. We are also concerned about our community members – including police officers who are called on to serve and protect all citizens.

Events in and around the City of Portland have shown that Portland Police Bureau policies, police training and procedures of interaction with those who suffer from mental distress have resulted in tragic consequences for all parties involved. As family members and citizens who deal with mental health issues on a regular basis, it is clear that these failures have harmed not only those who suffer from mental illness and their families and loved ones, but those who are charged with the task of protecting our community, their families and their loved ones. Instead of serving and protecting all citizens and producing good outcomes for all, we have witnessed needless death and destruction of lives and careers.

The results are tragic; the results have broken down the feeling of trust between our citizens and the Police Bureau, and must change.

Our experience with mental illness repeatedly demonstrates that persons in crisis may not hear and are often unable to respond to what are normally considered simple commands. Mental illness often is accompanied by a deficit of thought and loss of logical thinking, especially when accompanied by anxiety and stress. Asking responders to resolve crisis situations without adequate training to recognize and take appropriate action is not working for our community. We can and must do better. Policies, procedures and the training of interaction with people in crisis must reflect the realities of the situation encountered and allow for the resolution of a crisis that protects everyone involved.

We call for fundamental improvements in Portland Police Bureau oversight, training and procedures of crisis engagement so the cycle of personal tragedy for community members with mental illness and irreversible damage to police careers and service will be stopped.

NAMI members can understand that past incidents cannot be changed. NAMI members cannot understand or accept that the future cannot change. To ensure good outcomes for all our citizens, to provide for the safety of all of our loved ones and family members and for the health of our community, change must happen.

Margaret Brayden, *NAMI Multnomah E.D.*
Terri Walker, *President NAMI Multnomah*
Board of Directors

NAMI Multnomah Advocacy Committee Co-Chairs:
Sylvia Zingeser, *NAMI Multnomah representative on Crisis*
Intervention Team
Don Moore, *Past President NAMI Multnomah*
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NAMI Multnomah is a 501 (c) (3) non-profit organization. Federal Tax ID Number: 93-0862647



**Testimony in Support of Police Oversight Reforms
Portland City Council
March 31, 2010**

Good evening Mayor Adams and City Commissioners. Thank you for the opportunity to testify before you on this important issue. My name is Jeana Frazzini, and I serve as the Executive Director for Basic Rights Oregon. Basic Rights Oregon works to ensure that all lesbian, gay, bisexual and transgender (LGBT) Oregonians experience equality. We represent tens of thousands of Oregonians from every corner of the state.

Basic Rights Oregon is a proud member of the AMA Coalition for Justice and Police Reform and we are committed to working as an ally in a long-term sustained effort to engage community dialogue, build greater trust, and make necessary policy changes to achieve lasting change. There are no easy solutions to bring justice to our community, but your vote in support of the ordinance before you this evening is a critical step in the right direction.

Oregon's gay and transgender community is a community of many races, faiths, sexual orientations and gender identities. We are a community that has struggled with our relationship to the police and to institutions and systems that have excused crimes against us in the belief that our identities pose some threat or are less worthy of due process. Indeed, the modern movement for LGBT equality traces its origins to the 1969 riots at Stonewall – where the community fought back against persistent police raids and harassment.

The lived experience of LGBT people and people of color have distinct histories and struggles, but our communities – especially LGBT communities of color – know what it means to fear for our safety, the well-being of our families, and the security of our communities.

I encourage you to approve this ordinance today, as there is much more work to be done. This is in some ways a starting point, although the community call for reform has been building for many years.

Thank you.

TUESDAY
SEPTEMBER 29, 2009

Submitted by
Greg Kafoury
3/31/2010

183657

The Oregonian

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BREAKING NEWS AT OREGONLIVE.COM

WINNER OF SEVEN PULITZER PRIZES

SUNRISE EDITION

City ordered to pay in police confrontation

False arrest | Three men were frightened after being stopped by officers in a downtown Portland parking garage

By **STUART TOMLINSON**
and **STEPHEN BEAVEN**
THE OREGONIAN

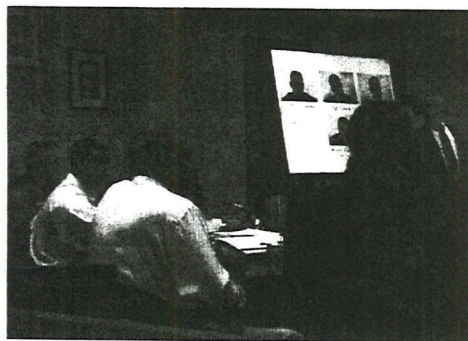
A Multnomah County jury Monday ordered the city of Portland to pay three men a total of \$175,000 for a 2007 encounter with police at a downtown parking garage in which the men accused officers of battery, assault and false arrest.

The jurors found the testimony of two independent witnesses especially compelling. The witnesses, a young college couple, saw the entire episode and corroborated the stories of the three men: Harold Hammick, Ri'Chard Booth and Alex Clay.

"Justice does work," Clay said after the verdict. "The system does work."

A city attorney had argued last week during the

Please see **VERDICT**, Page A5



STUART TOMLINSON/THE OREGONIAN

Officer Leo Besner (left) sits near plaintiffs (from left) Alex Clay, Ri'Chard Booth and Harold Hammick during a civil trial before Judge David Rees in Multnomah County Circuit Court. The men's attorney, Greg Kafoury, is at far right. A jury awarded the three men \$175,000 in damages for false arrest.

Verdict: Men say they were held at gunpoint

Continued from Page One

trial that police were acting within the law when they stopped and detained the three men in the early morning after St. Patrick's Day 2007.

The confrontation ended successfully, Portland city attorney Bill Manlove said, because there were "no injuries, no gunshots, no deaths, no high-speed chases, no foot pursuit.

"Everyone went home safe," Manlove said.

But the three young men claimed they were frightened and confused about why they had been stopped by officers who, they say, never offered an explanation.

Greg Kafoury, the attorney for the men, said that the city's defense had invoked an ugly stereotype of young black men as belligerent, confrontational and profane.

All three men have clean records, with no history of violence. Clay is a graduate of Portland State University and works with at-risk youth at Head Start. Booth assembles mattresses, and Hammick is a computer technician.

Hammick, Booth and Clay had come downtown to celebrate St. Patrick's Day in Portland's entertainment district. According to Kafoury, Hammick and Booth had returned to an SUV in the parking garage at Southwest Fourth Avenue and Alder Street when they encountered the police. Clay showed up later after stopping at a pizza parlor.

The men sued the city for \$300,000 for what they described as 40 minutes of terror in which they were held at gunpoint while officers searched their car and checked to see whether the handgun Hammick was carrying was stolen.

The city tried to portray Hammick as an angry man with a gun who may have been involved in an altercation on the street before the encounter with police.

Officer Leo Besner testified that there was a big crowd on the street that morning, shouting and getting ready to fight. One group wore white T-shirts, and another group wore black T-shirts.

Besner said he saw Hammick on the street, running in a white T-shirt when the two groups were shouting at each other. He later came across him in the parking garage in the SUV about 2:45 a.m.

Early in the encounter, Hammick told Besner he had a gun and handed over his concealed weapon permit, Besner testified.

After Hammick indicated the gun was in his waistband, Besner drew his weapon and took a half-step back. Two other officers on the scene also pulled their weapons.

A short time later, Besner said, he cut Hammick's seat belt because he didn't want Hammick to reach near the gun to unbuckle the safety harness. Then, he told Hammick to get out of the car and took the handgun.

Hammick, Besner testified, was "definitely unhappy ... From the get-go, he was argumentative."

But Kafoury told a different story. All three men, he said, were wrenched from the SUV and handcuffed.

Kafoury also said that Besner punched Hammick twice in the groin and questioned his manhood during the confrontation, accusations the officer denied.

"We know that the plaintiffs were not confrontational," Kafoury told the jury during his closing. "The word they used more often than any other was 'please.'"

Hammick, he added, had tears streaming down his face.

The men also said that police told other people in the parking garage to move along, Kafoury said in closing arguments, "because they did not want witnesses."

The two witnesses who scrunched down in their car seat so they could watch the confrontation said all three men pleaded with passers-by not to leave them alone with police.

Those witnesses were a key to the jury's verdict, said forewoman Karen Nootenboom. She also said jurors felt as if Hammick, Booth and Clay "were at the wrong place at the wrong time," Nootenboom said, "and seemed to be targeted."

Race was discussed only briefly during deliberations, she added, as jurors wondered whether white men would have been treated the same.

Besner has been at the center of controversy before. In 2005, while he was a sniper with the Special Emergency Reaction Team, Besner shot a suicidal man who was holding a weapon in the backyard of a duplex. The man was on the phone with a police negotiator at the time. The city paid the man's family \$500,000.

Detective Mary Wheat, a Police Bureau spokeswoman, said after the verdict that "Officers were concerned about the public's safety and their own safety and making sure nobody got hurt. And no one did."



TAJFA (Truth And Justice For All)

183657

A.L. "Skipper" Osborne, Founder/CEO
Leanne Gordon-Osborne, M.A. Counseling, CEO
P.O. Box 12306 Portland, OR 97212-0306
(503) 654-8246 / tajfa@comcast.com

Truth.justice8forall@yahoo.com

Tuesday, March 31, 2010

Good evening, I am Reverend A. L. "Skipper" Osborne, founder of **TAJFA (TRUTH AND JUSTICE FOR ALL)** a civil rights organization, former President of the Portland Branch **NAACP**, and a member of the Albina Ministerial Alliance Coalition for Justice and Police Reform. Mayor Adams and members of the City Council, the proposed ordinance by Commissioner Randy Leonard and City Auditor Lavonne Griffin-Valade, is heading in the right direction for a better oversight of the Portland Police Bureau. The current rash of shootings by certain Portland police officers, which resulted in deaths, is unacceptable. Commissioner Leonard's and City Auditor Griffin-Valades' proposed ordinance is the beginning of breaking the secrecy, behind closed door operations, and investigations, by the Portland Police Bureau.

Therefore, "*We The People*," believe that the adoption of this proposed ordinance will strengthen the Independent Police Review Board (IPR), and help the IPR do its job more equitably, justly, and truthfully: and help prevent the gross criminal negligence by certain Portland police officers, and their getting away with "justifiable homicide."

"*We The People*" also believe it is equally important, in light of the March 12, 2010, meeting of the Portland Police Association and the City of Portland; that the meetings concerning the Labor Agreement, between the Portland Police Association and the City of Portland, be totally **open** to the public and the media: Oregon Revised Statutes (ORS) 192.610 to 192.690 governs this openness: **ORS 192.620 Policy** states that: *The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. [1973 c.172 §1],* and

ORS 192.630 Meetings of governing body to be open to public; location of meetings...; (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting...

(4) Meetings of the governing body of a public body **shall be held within the geographic boundaries over which the public body has jurisdiction**, or at the administrative headquarters of the public body or at the other nearest practical location...

The definitions of "Governing body," "meeting" and "public body" are defined by ORS 192.610 §'s (3), (4), and (5): (3) "**Governing body**" means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a **public body** on policy or administration.

(4) "**Public body**" means the state, any regional council, county, city or district, or any municipal or public corporation, or any board, department, commission,

Mission Statement
Truth And Justice For All

council, bureau, committee or subcommittee or advisory group or any other agency thereof.

(5) **"Meeting"** means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on *any matter*...

There was a discussion on should the meeting be recorded, or minutes taken;

ORS 192.650 Recording or written minutes required; content; fees. (1) The governing body of a public body shall provide for the sound, video or digital recording or the taking of written minutes of *all its meetings*...

There was also a discussion on where the meetings are to be held;

ORS 192.660 (3) Labor negotiations shall be conducted in *open* meetings unless negotiators for both sides request that negotiations be conducted in executive session. Labor negotiations conducted in executive session are not subject to the notification requirements of ORS 192.640.

192.680 Enforcement of ORS 192.610 to 192.690; effect of violation on validity of decision of governing body; liability of members. (1) A decision made by a governing body of a public body in violation of ORS 192.610 to 192.690 shall be voidable...

Therefore, it is the duty of this sitting City Council to uphold the openness laws according to the aforementioned Oregon Revised Statutes, and to support city negotiator Mr. Steve Herron; Mz. Yvonne Deckard, head of the city's Bureau of Human Resources; City Auditor Griffin-Valade; the news medias and most important of all; *"We The People."* *"We The People"* are the ones who voted you in office to do our bidding.

I have taken a quote attributed to the Irish playwright Mr. Bernard Shaw, and added my thoughts: "If you have an apple and I have an apple and we exchange apples, then you and I will still each have one apple. But if Commissioner Leonard and City Auditor Griffin-Valde have an idea and the IPR have an idea and we exchange these ideas, then each of us will have two ideas. And if we take these two ideas and integrate them into one idea (a new city ordinance), then and only then, that we have something better for the Portland Police Bureau and, *"We The People."*

Thank you.

This information may be quoted in whole or in part



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March 30, 2010

Testimony and Comments on Proposed Police Oversight Ordinance

INTRODUCTION

On March 18, 2010, Portland National Lawyers Guild (NLG) Chair Ashlee Albies and member Mark Kramer testified before the City Council during its hearing on Commissioner Leonard's proposed ordinance to Establish Police Review Board and clarify investigatory powers and complaint handling procedures of the Office of Independent Police Review (Ordinance; amend Code Chapters 3.20 and 3.21). We submit the following information as a summary of our testimony and further clarification on the points raised.

The Portland NLG is a member of the Albina Ministerial Alliance Coalition for Justice and Police Reform and Portland Chapter Chair Ashlee Albies serves as the chair of the Coalition's legal subcommittee. We thus commend the efforts of the Auditor, the Independent Police Review Division (IPR) and Commissioner Leonard and support the ordinance being proposed in its current form as a good first step in what we hope to be many to get us to a point of effective independent oversight.

In particular, we look forward to appearing again in front of the Council when it revisits the ordinance in 90 days, as this will give a chance for stakeholders and Council to work together to: (1) review and assess implementation of the changes and recommend any additional changes that will strengthen oversight, (2) hold IPR and the Police Review Board (PRB) accountable for the changes proposed, and (3) incorporate important changes to the Citizen Review Committee (CRC) of the IPR.

In addition to this 90 day review, we recommend the City Council add a 12 month review to the current ordinance, as this time frame will give a more thorough opportunity for the IPR to implement these changes and assess their successes and challenges.

We strongly urge each Commissioner to vote in favor of this ordinance; to the extent any additional amendments or changes are proposed, our comments address only the ordinance in its current form as proposed on March 18, 2010 and strongly disfavor any additional amendments that would dilute its key steps forward.

March 30, 2010

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ORDINANCE

Police have power and authority that is unmatched in our society: they are first responders to reports of crime and crisis; have the legal authority to detain and arrest citizens, and to take a person's life when justified. Because they carry this enormous responsibility, we as members of the community they serve and protect seek accountability where there may be abuse of this awesome power. We believe this ordinance presents an important step forward towards a more effective system of checks and balances, which lies at the foundation of our system of government.

While we support the immediate passage of this ordinance, we set out below our substantive comments and proposals for consideration during the upcoming review period.

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION – Chapter 3.21

Powers and Duties of the IPR

IPR TO HANDLE ALL CITIZEN COMPLAINTS - TRANSFER IAD FUNDS TO IPR

We believe the IPR should conduct investigations on civilian complaints, and/or more meaningfully participate in the IAD investigations. To that end, with a view towards upcoming budgets, the Council should direct more resources to the IPR's investigatory capabilities. We also support the AMA Coalition's call to eliminate the use of police Internal Affairs Division (IAD) to conduct investigations for cases involving contact with community members (all cases except "Type II"), transfer funds from IAD's civilian investigators to the IPR, and allow all cases to be investigated by IPR. 3.21.120 C.2.a; 3.21.120 D.1-3.

NEGOTIATING CHANGES THROUGH COLLECTIVE BARGAINING

We believe that genuinely independent investigations are imperative to public accountability for police use of force. We believe that the necessary investigatory power can and should be agreed to through the collective bargaining process. We urge the City and the Union to ensure that the new CBA:

- Permits IPR to directly question a police officer and require the officer to respond as a condition of employment; and
- Extends IPR's authority to independent investigations of shootings and deaths in custody.

CLARIFYING AUTHORITY OF IPR TO INVESTIGATE POLICE SHOOTINGS AND DEATHS IN CUSTODY

We note the ordinance does not explicitly authorize IPR involvement the types of cases identified and recommended by the Luna-Firebaugh report, including, but not limited to "high-profile shootings, deaths, use of force with serious bodily harm, racial profiling, illegal searches," and when there is "high emotion in the community," or a conflict of interest. The current ordinance allows initiation of an investigation "based

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on the IPR Director's judgment," which does not allow for public accountability. 3.21.070 D; 3.21.120 C.2.b; 3.21.120 D.4.

AVOIDING CONFLICTS OF INTEREST - INDEPENDENT COUNSEL FOR IPR

The current ordinance creates a conflict of interest whereby the City Attorney is asked to approve bringing in outside legal counsel when the conduct of its employees is at issue. The ordinance should allow the IPR Director, the Auditor and/or the Citizen Review Committee to determine whether or not to hire outside counsel, with an eye toward giving IPR independent counsel through a charter change. 3.21.070 O.

HANDLING COMPLAINTS

The ordinance adds a provision to grant the IPR Director discretion to dismiss a complaint where she determines "it is more likely than not that no misconduct was committed." Although we understand the IPR director's intention to use this for a limited type of complaint, we recommend that the ordinance define the criteria the IPR Director may use for such a dismissal. The proposed language grants the IPR Director complete and unreviewable discretion to dismiss complaints under these vague circumstances. 3.21.120 C.4.

POLICE REVIEW BOARD CODE – 3.20.140

We applaud the effort to codify and make transparent the Police Review Board (PRB) process, and we support granting the IPR director a vote on this board, and the requirement of public reports on the actions of the board. We make the following suggestions with the view towards strengthening this body:

- We strongly believe that the PRB must be a credible process, and in our current tense climate, the perception of a credible process is equally important. **To that end, we very strongly urge there to be at least three (3) citizens on the Police Review Board , as there are currently three (3) citizens total in the combined on Use of Force and Performance Review Boards.** The voting members on the PRB are too heavily weighed toward the police. In the proposed ordinance, there are five members, of which three are police employees. In matters of deaths, injury or less lethal incidents, there are seven members with four police employees. 3.20.140 C.1.a.(1) / PPB Directives 335.00 and 336.00.
- The ordinance grants members access to "necessary and relevant documents." The ordinance should clarify the process of who makes that determination and what factors are considered. The voting members should have access to all information pertaining to the incident. 3.20.140 D. 1.
- The ordinance should set standards or criteria by which the Auditor can recommend to the City Council the removal of citizen members from the pool. We appreciate the Auditor's revisions that vest removal power with the Council, but feel this process can be made even more transparent with this suggestion.

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- The Chief of Police or Commissioner in Charge can make the final decision on discipline based on the findings of the Review Board, which are merely recommendations. The Chief or Commissioner should explain in writing, publicly, how and why they made their decision especially if it differs from the Board's recommendation. 3.20.140.H

EXPEDITIOUS INVESTIGATIONS – 3.20.145

We applaud the effort to limit the time frame in which the investigations are conducted. However several aspects of this section remain unclear. As a general matter, this section adds a time line for investigations to be completed (six months after the first officer is interviewed), and then proceeds to exempt a broad category of situations from that time line. The time line is further diluted adding additional categories allowing extension of the time line.

Section A states that all investigations of Bureau member misconduct shall be initiated within 24 months of the date of the alleged misconduct. However, it is not clear how long after a complaint is made that an investigation must be initiated. Thus, for a complaint made three days after an incident, the investigation could be initiated 23 months later. The ordinance should clarify the time relationship between complaint and initiation of investigation.

The exceptions to the 24-month initiation time frame and the six-month completion time frame are overbroad, and be narrowed or clarified:

- One exception is where an officer is “incapacitated or unavailable.” This could apply indefinitely to an officer on vacation or sick leave, or out on disability, and contains no provision for reinstatement of the timeline once the officer is once again “available.” 3.20.145.B.1
- Another exception allows an officer to “waive the time limit.” While we appreciate that this exists for the benefit of the officer, it provides no notice or similar waiver opportunity to a complainant. This section needs to be removed, or a reciprocal waiver opportunity given to the community member complainant. 3.20.145.B.3.
- Yet another exception to the timeline exists where the investigation involves more than one officer. Many investigations involve more than one officer; this exception alone could delay nearly every case. 3.20.145.B.5.
- Another section also allows for tolling of the time limit for matters involving civil litigation. It is not clear what action will trigger this section, for instance, must it be a tort claim notice or the actually filing of a lawsuit. A tort claims notice is not a law suit, it is merely the notice of a potential lawsuit and must be filed within 180 days of the alleged wrongdoing (1 year where death occurs). Most tort claims notices do not result in lawsuit. Therefore a tort claims notice should neither defer nor toll the time limits for an IPR investigation. In addition, we have heard many concerns about overly long investigations that involve matters that are currently involved in civil litigation, and this part of the ordinance does nothing to affect those situations. 3.20.145.C.2.

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- There is no penalty or enforcement of the timelines set out in this section. If this is section is meant to be merely advisory, that should be made explicit in this section. 3.20.145.

STAKEHOLDER GROUP

We welcome the opportunity to participate with other community members in the stakeholder group process. We look forward to seeing an outline of that process and the procedures that will apply to the group, including specifications of how decisions and recommendations will be made.

In addition to this 90 day review, we recommend the City Council add a six month review to the current ordinance, as this time frame will give a more thorough opportunity for the IPR to implement these changes and assess their successes and challenges.

ADDITIONAL CONSIDERATIONS

We hope the City Council takes seriously the recommendations of the Citizen Review Committee Report, when finalized, as the draft form contains many helpful recommendations to strengthening the effectiveness of the IPR as an effective oversight body.

In addition, we briefly address some of the criticisms of this ordinance we have seen reported:

- We have heard criticism that this ordinance would create another layer of bureaucracy. On the contrary, this ordinance makes the processes involved more transparent than they currently are, strengthens the oversight authority of the IPR, and in general, clarifies rather than complicates the process.
- We have also heard the assertion that Police Assessment Resource Center (PARC) recommended the existing structure. In fact, PARC's recommendations are more akin to those proposed by this ordinance, including the recommendation we make here that IPR be authorized to review in custody deaths and shootings.
- There has been accusation that the IPR director's service on the PRB will somehow compromise her independence. However, the IPR director answers and is accountable to the Auditor, and independently elected official, and is not employed by the Police Bureau. Again, the IPR director's vote on the PRB is crucial to a sense of independent oversight.

CONCLUSION

We again applaud the efforts at police oversight reform. It is long over due, and a welcome first step. We point out that transparency and accountability are good for public safety, and in turn, good for our community

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183657

March 31, 2010

My name is Brenda Sifuentez and I am an organizer with Portland Jobs with Justice. We are membership coalition of 85 organizations that include unions, community, faith, and student groups. We are here today in support of the ordinance and believe it is a step in the right direction. We support efforts to reform police policies as it pertains to the use of lethal force, training and hiring, racial profiling, and civilian oversight to ensure that tragedy does not continue to happen in our community.

JwJ got involved in police accountability work several years ago when the AMA had an ad-hoc committee in response to the Kendra James killing. We engaged our member organizations in a conversation and made a collective decision that it was important for us, as a bridge between labor and community organizations, to speak and take action on these issues. Here we are, years later, in the wake of what happened to Aaron Campbell and Jack Dale Collins, it seems even more important that we stand with the AMA and speak up for real change.

This ordinance is the right step to ensure that there is full citizenship participation and oversight is happening. There needs to be accountability and trust between the police and the community. This bond has been damaged and will continue to degrade if as commissioners you do not take action by passing this ordinance. Police should never be a law unto themselves or above the law. Community input is crucial and needs to be taken seriously, and that is why we stand in solidarity with the AMA Coalition for Justice and Police Reform and support the citizen participation ordinance.

By strengthening and giving power to the Independent Police Review Division to initiate investigations of officers, the community will start to believe that the IPR has the power to hold the police department accountable.

POLICY AND PROCEDURE

Index: Title; Transactions with Prisoners and Suspects

POLICY (313.40)

Members shall not take part in any promises or arrangements between wrongdoers and/or victims of a criminal act with intentions of permitting wrongdoers to escape arrest or punishment. This does not prohibit a member's involvement in civil compromise situation.

No member shall knowingly buy or accept any article for personal disposition from a suspect or prisoner or from any associate of any suspect or prisoner.

313.50 ENDORSEMENTS, REFERRALS AND PUBLICITY

Index: Title; Publicity, Endorsements and Referrals

Refer: DIR 631.35 Press/Media Policy and Procedure

POLICY (313.50)

Members in an official capacity shall not recommend or suggest to the public, the employment or procurement of a particular product or private, professional, or commercial service. In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or request assistance, members shall proceed in accordance with established City procedure. In no case may a fee, gratuity, gift, services or reward be solicited, offered, or accepted from an attorney or other person.

Members shall not address legislative bodies or committees; appear on radio or television; prepare any article for publication; act as correspondents to a newspaper or a periodical; release or divulge investigative information, except as authorized by DIR 631.35; or any other matters of the Bureau while presenting themselves as representing the Bureau, or by identifying their association with the Bureau in such matters, without the approval of the Chief.

313.70 GENERAL CONDUCT – ASSOCIATIONS

Index: Title; Associations; Conduct, General; Standard of Conduct

POLICY (313.70)

Efficiency of operations, promotion of public safety, community policing goals and the Bureau's ability to foster positive relationships with communities requires certain limitations on associations by individual members. Therefore, members shall avoid regular or continuous association or transactions with persons or groups who they know, or could be reasonably expected to know:

- a. Are currently the subject of a felony investigation.
- b. Are under criminal indictment.



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March 30, 2010

Testimony and Comments on Proposed Police Oversight Ordinance

INTRODUCTION

On March 18, 2010, Portland National Lawyers Guild (NLG) Chair Ashlee Albies and member Mark Kramer testified before the City Council during its hearing on Commissioner Leonard's proposed ordinance to Establish Police Review Board and clarify investigatory powers and complaint handling procedures of the Office of Independent Police Review (Ordinance; amend Code Chapters 3.20 and 3.21). We submit the following information as a summary of our testimony and further clarification on the points raised.

The Portland NLG is a member of the Albina Ministerial Alliance Coalition for Justice and Police Reform and Portland Chapter Chair Ashlee Albies serves as the chair of the Coalition's legal subcommittee. We thus commend the efforts of the Auditor, the Independent Police Review Division (IPR) and Commissioner Leonard and support the ordinance being proposed in its current form as a good first step in what we hope to be many to get us to a point of effective independent oversight.

In particular, we look forward to appearing again in front of the Council when it revisits the ordinance in 90 days, as this will give a chance for stakeholders and Council to work together to: (1) review and assess implementation of the changes and recommend any additional changes that will strengthen oversight, (2) hold IPR and the Police Review Board (PRB) accountable for the changes proposed, and (3) incorporate important changes to the Citizen Review Committee (CRC) of the IPR.

In addition to this 90 day review, we recommend the City Council add a 12 month review to the current ordinance, as this time frame will give a more thorough opportunity for the IPR to implement these changes and assess their successes and challenges.

We strongly urge each Commissioner to vote in favor of this ordinance; to the extent any additional amendments or changes are proposed, our comments address only the ordinance in its current form as proposed on March 18, 2010 and strongly disfavor any additional amendments that would dilute its key steps forward.

ORDINANCE

Police have power and authority that is unmatched in our society: they are first responders to reports of crime and crisis; have the legal authority to detain and arrest citizens, and to take a person's life when justified. Because they carry this enormous responsibility, we as members of the community they serve and protect seek accountability where there may be abuse of this awesome power. We believe this ordinance presents an important step forward towards a more effective system of checks and balances, which lies at the foundation of our system of government.

While we support the immediate passage of this ordinance, we set out below our substantive comments and proposals for consideration during the upcoming review period.

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION – Chapter 3.21

Powers and Duties of the IPR

IPR TO HANDLE ALL CITIZEN COMPLAINTS - TRANSFER IAD FUNDS TO IPR

We believe the IPR should conduct investigations on civilian complaints, and/or more meaningfully participate in the IAD investigations. To that end, with a view towards upcoming budgets, the Council should direct more resources to the IPR's investigatory capabilities. We also support the AMA Coalition's call to eliminate the use of police Internal Affairs Division (IAD) to conduct investigations for cases involving contact with community members (all cases except "Type II"), transfer funds from IAD's civilian investigators to the IPR, and allow all cases to be investigated by IPR. 3.21.120 C.2.a; 3.21.120 D.1-3.

NEGOTIATING CHANGES THROUGH COLLECTIVE BARGAINING

We believe that genuinely independent investigations are imperative to public accountability for police use of force. We believe that the necessary investigatory power can and should be agreed to through the collective bargaining process. We urge the City and the Union to ensure that the new CBA:

- Permits IPR to directly question a police officer and require the officer to respond as a condition of employment; and
- Extends IPR's authority to independent investigations of shootings and deaths in custody.

CLARIFYING AUTHORITY OF IPR TO INVESTIGATE POLICE SHOOTINGS AND DEATHS IN CUSTODY

We note the ordinance does not explicitly authorize IPR involvement the types of cases identified and recommended by the Luna-Firebaugh report, including, but not limited to "high-profile shootings, deaths, use of force with serious bodily harm, racial profiling, illegal searches," and when there is "high emotion in the community," or a conflict of interest. The current ordinance allows initiation of an investigation "based

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on the IPR Director's judgment," which does not allow for public accountability. 3.21.070 D; 3.21.120 C.2.b; 3.21.120 D.4.

AVOIDING CONFLICTS OF INTEREST - INDEPENDENT COUNSEL FOR IPR

The current ordinance creates a conflict of interest whereby the City Attorney is asked to approve bringing in outside legal counsel when the conduct of its employees is at issue. The ordinance should allow the IPR Director, the Auditor and/or the Citizen Review Committee to determine whether or not to hire outside counsel, with an eye toward giving IPR independent counsel through a charter change. 3.21.070 O.

HANDLING COMPLAINTS

The ordinance adds a provision to grant the IPR Director discretion to dismiss a complaint where she determines "it is more likely than not that no misconduct was committed." Although we understand the IPR director's intention to use this for a limited type of complaint, we recommend that the ordinance define the criteria the IPR Director may use for such a dismissal. The proposed language grants the IPR Director complete and unreviewable discretion to dismiss complaints under these vague circumstances. 3.21.120 C.4.

POLICE REVIEW BOARD CODE – 3.20.140

We applaud the effort to codify and make transparent the Police Review Board (PRB) process, and we support granting the IPR director a vote on this board, and the requirement of public reports on the actions of the board. We make the following suggestions with the view towards strengthening this body:

- We strongly believe that the PRB must be a credible process, and in our current tense climate, the perception of a credible process is equally important. **To that end, we very strongly urge there to be at least three (3) citizens on the Police Review Board , as there are currently three (3) citizens total in the combined on Use of Force and Performance Review Boards.** The voting members on the PRB are too heavily weighed toward the police. In the proposed ordinance, there are five members, of which three are police employees. In matters of deaths, injury or less lethal incidents, there are seven members with four police employees. 3.20.140 C.1.a.(1) / PPB Directives 335.00 and 336.00.
- The ordinance grants members access to "necessary and relevant documents." The ordinance should clarify the process of who makes that determination and what factors are considered. The voting members should have access to all information pertaining to the incident. 3.20.140 D. 1.
- The ordinance should set standards or criteria by which the Auditor can recommend to the City Council the removal of citizen members from the pool. We appreciate the Auditor's revisions that vest removal power with the Council, but feel this process can be made even more transparent with this suggestion.

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- The Chief of Police or Commissioner in Charge can make the final decision on discipline based on the findings of the Review Board, which are merely recommendations. The Chief or Commissioner should explain in writing, publicly, how and why they made their decision especially if it differs from the Board's recommendation. 3.20.140.H

EXPEDITIOUS INVESTIGATIONS – 3.20.145

We applaud the effort to limit the time frame in which the investigations are conducted. However several aspects of this section remain unclear. As a general matter, this section adds a time line for investigations to be completed (six months after the first officer is interviewed), and then proceeds to exempt a broad category of situations from that time line. The time line is further diluted adding additional categories allowing extension of the time line.

Section A states that all investigations of Bureau member misconduct shall be initiated within 24 months of the date of the alleged misconduct. However, it is not clear how long after a complaint is made that an investigation must be initiated. Thus, for a complaint made three days after an incident, the investigation could be initiated 23 months later. The ordinance should clarify the time relationship between complaint and initiation of investigation.

The exceptions to the 24-month initiation time frame and the six-month completion time frame are overbroad, and be narrowed or clarified:

- One exception is where an officer is “incapacitated or unavailable.” This could apply indefinitely to an officer on vacation or sick leave, or out on disability, and contains no provision for reinstatement of the timeline once the officer is once again “available.” 3.20.145.B.1
- Another exception allows an officer to “waive the time limit.” While we appreciate that this exists for the benefit of the officer, it provides no notice or similar waiver opportunity to a complainant. This section needs to be removed, or a reciprocal waiver opportunity given to the community member complainant. 3.20.145.B.3.
- Yet another exception to the timeline exists where the investigation involves more than one officer. Many investigations involve more than one officer; this exception alone could delay nearly every case. 3.20.145.B.5.
- Another section also allows for tolling of the time limit for matters involving civil litigation. It is not clear what action will trigger this section, for instance, must it be a tort claim notice or the actually filing of a lawsuit. A tort claims notice is not a law suit, it is merely the notice of a potential lawsuit and must be filed within 180 days of the alleged wrongdoing (1 year where death occurs). Most tort claims notices do not result in lawsuit. Therefore a tort claims notice should neither defer nor toll the time limits for an IPR investigation. In addition, we have heard many concerns about overly long investigations that involve matters that are currently involved in civil litigation, and this part of the ordinance does nothing to affect those situations. 3.20.145.C.2.

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Page 5

- There is no penalty or enforcement of the timelines set out in this section. If this section is meant to be merely advisory, that should be made explicit in this section. 3.20.145.

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CONCLUSION

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NLG Chair
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ESTABLISH POLICE REVIEW BOARD

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✓ MARCUS MUNYA	URBAN LEAGUE	
✓ ^{Alicia} REV ALICIA ^{DOZER} BOYER	EPISCOPAL DIOCESE	
✓ ASHLEY ALBIES	NATIONAL LAWYERS GUILD	
✓ CYNTHIA GOMEZ	LATINO NETWORK	
✓ DAN HANDEMAN	PORTLAND COPWATCH	
✓ JO ANN BOWMAN	OREGON ACTION	
yes MARK KNUTSON	AUGUSTANA LUTHERAN CH CHURCH	
✓ DEBBIE AIONA	LEAGUE OF WOMEN VOTERS	
✓ ROBIN WISNER	A. M. A.	
✓ ANDREA MOYER	A. C. L. U OF OREGON	

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✓ VERONICA CLARK <small>Souchin</small>	OREGON ACTION PORTLAND	
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What Do We Want

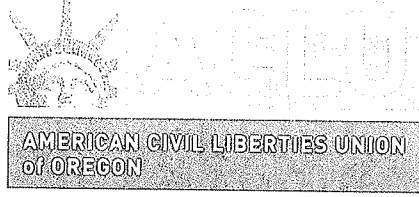
183657

Members of the Albina Ministerial Alliance Coalition For Justice and Police Reform agree to three binding principles for organization and individual membership.

1. Every organization and individual member of the AMA Coalition must embrace the five necessary changes, as listed below. These five points will evolve as we proceed.
2. Every organization and individual must accept the principles of non-violent direct action as enunciated by Dr. Martin Luther King, Jr.
3. Every organization and individual is called to work as a team in concert with one another to achieve the five necessary changes.

The Albina Ministerial Alliance Coalition For Justice and Police Reform wants five necessary changes to prevent the future death of another Aaron Campbell, James Chasse, James Jahar Perez, Jose Mejia Poot, Kendra James and others:

1. We want a federal investigation by the US Justice Department to include: Criminal and civil rights violations, as well as a federal audit of patterns and practices of the Portland Police Bureau.
2. We want Portland City Commissioners to strengthen the Independent Police Review Division and the Citizen Review Committee with the goal of adding the power to compel testimony.
3. We want Portland Police Bureau Chief Rosie Sizer and the Portland City Commissioners to fully review the bureau's excessive force and deadly force policies and training with diverse citizen participation for the purpose of making recommendations to change the policies and training.
4. We want the Oregon State Legislature to revisit former Senator Avel Gordly's bill to narrow the language of the Oregon State Statute for deadly force used by police officers.
5. We want the district attorney to establish a special prosecutor for police excessive force and deadly force cases.



183657

Testimony to the Portland City Council
Agenda Item # 385 regarding:
Changes to Independent Police Review
and Establishing Police Review Board

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Andrea Meyer
Legislative Director/Counsel
ACLU of Oregon

March 18, 2010

ACLU of Oregon appears today to testify regarding amending Portland City Code Chapter 3.20 by replacing it with section 3.20.140 (Exhibit A), 3.20.145 (Exhibit B) and amending Chapter 3.21 (Exhibit C), creating a new Police Review Board and amending the current code regarding the City Auditor's Independent Police Review Division.

We support the efforts put forward by Commissioner Randy Leonard and Auditor LaVonne Griffin-Valade and appreciate the many improvements they have proposed to the Independent Police Review (IPR). Today we join others in support of many of the changes but also to identify improvements still necessary. We appreciate being added to the stakeholder group that will look at providing additional recommendations. We hope that this is just the beginning of any on-going effort by Council to:

- Strengthen and empower the Independent Police Review process with preference towards codifying requirements in ordinance over IPR protocols and procedures.
- Strengthen the authority of the Citizen Review Committee with meaningful opportunity for input from community organizations, the public and the CRC after it has reviewed its own subcommittee recommendations (CRC IPR Structure Review Workgroup report of March 2010).
- Continue on an *ongoing* basis an evaluation of all the moving parts (IPR, CRC, IAD, PPB policies, procedures and directives), through ordinance as well as protocols and procedures to ensure there is meaningful and effective civilian oversight.

This should be the beginning of this effort with ongoing Council participation and review.

ACLU believes that the most effective civilian oversight will meet the following critical goals:

- 1) Increase the general public's confidence that local law enforcement is professional and responsive to the concerns of the public for both safety and justice;
- 2) Provide a readily accessible and responsive process for pursuing complaints about the fairness of specific police actions towards individuals and ensure that the investigations and hearings are truly independent and result in articulated findings and actions that are fair to both the complainants and police offices; and
- 3) *Continuously* identify, review and make recommendation on Police Bureau policies and practices. That process should include public involvement, clear timelines and requirements for response and action on recommendations.

In some cases, the IPR and CRC have lacked the authority to implement these goals and in other cases, their authority has not been exercised as vigorously as it should. It is important when evaluating the current IPR and any recommended changes to not only understand what is missing but, when authority has been provided, why it has not been exercised. **Council must remain active in ensuring that the powers it gives are used on a regular basis. If not, Council needs to demand accountability and, if necessary make appropriate changes to address any problems.** In addition, while important changes have already occurred in the last few months, where appropriate the City Code should codify those changes to ensure long-term institutional implementation.

● **Investigations & Civil Liability**

We support immediate action on complaint or "community concern" initiated investigations, regardless of whether or not there is exposure to civil liability or actual ongoing civil litigation.

One of the most important issues still unclear in the re-written ordinance is the authority for the IPR to quickly investigate or participate in an investigation of any complaint which also may have exposure to civil liability or ongoing civil legal action. The government has an obligation to be aggressive in looking at these events in a timely manner and to be transparent in both process and results. To let the threat of litigation to delay or stop government from addressing what could be significant safety and justice issues is to undermine the public's trust and confidence.

● **Expeditious Investigations – (3.20.145) (Exhibit B)**

We agree that investigations should be undertaken expeditiously. However, we are concerned about the language, not necessarily the intent, set forth in 3.20.145. We believe the intent is to provide some "statute of limitations" of not more than 24 months absent good cause. However, the intent should be for investigations to be taken expeditiously upon receipt of complaint or determination of a "community concern" (including an expected start time within, for example 30 days of receipt) but no later than 24 months. To the degree this already happens, it only helps make it clear to the public and those more directly involved, if it is codified in ordinance.

● **Definition Standard of Review “Supported by the Evidence” (3.21.020(S) (Exhibit C, p. 3)**
We support changing this from a “reasonable person” standard to a “preponderance” standard.

● **Powers and Duties of IPR – Access to date & records (3.21.070 (B)&(C)) (Exhibit C, p. 4)**
We encourage Council to understand what restrictions may be placed in accessing data or records.

As written “IPR shall also have direct access to original database sources as permitted by state and federal law.” We want to make sure that if there are any restrictions based on either state and federal law, all steps are taken to ensure IPR access. This language is unclear and it is important to understand what type of information would be sought and what restrictions to access might exist that could be overcome by ordinance or other action administrative action. Council should understand what this provision means.

● **Powers and Duties of IPR – “Community Concern” (3.21.070(D) (Exhibit C, p. 4)**
We support giving authority to IPR to initiate, monitor and conduct investigations on matters that are of “community concern.” However, we encourage under the definition section that there be specific examples of what constitutes “community concern.” That list should not be exclusive but we encourage including those identified by the CRC IPR Structure Review Workgroup:

High profile shootings	“High emotion” in the community;
Deaths	Conflicts of interest
Use of force with serious bodily harm	Recommended by CRC
Racial profiling	At request of the Chief of Police
Illegal searches	

● **Composition of Police Review Board – 3.20.140 (Exhibit A)**
Composition of the Board absent use of force incidents is 13 individuals, 5 of whom are voting members. Of those 13 only 1 individual is a public member, the rest are City employees. We urge inclusion of more citizen members in non-use of force incidents as well as in use of force incidents.

CONCLUSION

Thank you for your consideration of these issues as well as the opportunity for more meaningful participation in the upcoming months.

City Council Presentation March 18th 2010

Good Afternoon Mayor & City Council members

For the record, I am Jo Ann Bowman, Executive director of Oregon Action and a member of the AMA Coalition for Justice and Police Reform.

I want to applaud the leadership of Commissioner Randy Leonard in presenting today's ordinance as well as the amendments that have been presented today.

I appreciate the thoughtfulness of Commissioner Leonard, the IPR Director and the Auditor to began to address the concerns of the community as it relates to police oversights.

As I've paid attention to the media coverage over the last week there have been several suggestions to delay the vote on this ordinance. I would like to address why today is the day to pass this ordinance and why delay is not an option.

-Chief Sizer is out of town

While it is true that Chief Sizer is out of town, the police chief has had many opportunities to offer suggestions and input on holding Portland Police Officers accountable for their behavior, yet she has failed to do so. Delaying implementation to hear from the chief is unnecessary since the ordinance creates a oversight committee that will report back to the full board within 90 days of the ordinance passage.

-More public input

The city council and the Portland Police Bureau have years of public input that has recommended fundamental changes throughout the Portland Police Bureau, this ordinance is one small piece of the institutional changes that need to take place at the Portland Police bureau. The Human Relations Committee is not recognized as an organization that is seeking justice for the community, in fact the community & police relations sub-committee has gone out of its way to make sure the police are comfortable on the committee but has done nothing to ensure that the communities civil rights are protected. The Commission does not reflect the experiences of Oregonians and is not the body that will mandate the fundamental changes that are needed.

In addition to this ordinance we need:

- Reform the citizen review committee
- Revise how community complaints are collected and analysis
- Revise the union contract to require, annual evaluations, drug testing, etc.
- Revise PPB use of force directives to ensure that deadly force is used only as a last resort

-Community Expectations

Over 2500 hundred community members have taken to the street in the last 30-days. The community is close to a boiling point and knows that when the media disappears policy makers tend to lower the priorities. The community is expecting the city council to take decisive action now, not next week or next month. The community wants the ordinance with the amendments passed today with the emergency clause in place. No delays, no excuses!

PORTLAND COPWATCH TESTIMONY ON POLICE OVERSIGHT ORDINANCE**March 18, 2010**

Mayor Adams and Commissioners Leonard, Saltzman, Fish and Fritz:

The proposals before you to strengthen the Independent Police Review Division (IPR) are a good start, but do not go far enough. We are willing to support these first step changes so long as the amendment requiring Council to consider further changes to the code is also adopted.

Not everybody knows the history of civilian oversight in Portland. In 1982, after City Council passed an ordinance to create the Police Internal Investigations Auditing Committee (PIIAC), the police "union" forced that ordinance onto the ballot, outspent the proponents of civilian review at least 5 to 1, but the measure still passed by a slim margin.

In the late 1990s, after City Council, which heard appeals about misconduct cases after a 13-member citizen advisory board had voted on them, recommended sustained complaints three times to the Police Chief, the Chief refused to accept the findings. That led to the creation of the Mayor's Work Group on PIIAC in 2000, on which several people testifying before you today sat, including me. That work group created a "Majority Report" which called for a fully independent review board, that handled civilian complaints against police without necessarily turning them over to Police Internal Affairs, one of the most frequent concerns we hear about the review system.

Then-Auditor Gary Blackmer took those recommendations and stripped many of the stronger provisions, creating the IPR. After community outcry caused by the death of Jose Mejia Poot, Council forced Auditor Blackmer to make a provision for IPR to review shootings and deaths cases, which led to the outside expert "PARC Reports." When the ordinance passed in June, 2001, Council promised the community to revisit the system within a year to see if it was working. The revisiting did not come for another 6-1/2 years, when consultant Eileen Luna-Firebaugh's report came out in 2008, calling on the IPR to do independent investigations.

Here we are two years later, nine years after the creation of IPR, and we're finally seeing some positive changes.

Unfortunately, even if all the changes are made, they do not address all of the concerns from the community, most significantly that they leaves in place the underlying structure of police investigating police in most cases.

However, we acknowledge that the IPR is being given authority, should the police "union" contract be modified, to compel officer testimony, a huge step in the right direction. That contract is currently up for review and Council needs to ensure not only that IPR can compel officer testimony, but that they also be able to investigate and review shootings and deaths in custody cases.

We also are pleased that the ordinance will codify the IPR's authority to review any complaint involving a police-citizen interaction, even if a Bureau member filed that complaint, something that currently occurs because of a handshake agreement. Given this new authority, the shootings and deaths piece should not be an issue, as they are in essence no different than other misconduct investigations.

Giving the IPR subpoena power to call in officers from other jurisdictions as well as witnesses whose jobs limit their willingness to cooperate is also an excellent step forward.

But let us be clear, that the best way to win community trust is to take the money being paid to Internal Affairs for most of its investigators and transfer that money to the IPR to hire their own investigators, limiting IAD's scope to those complaints of officer versus officer with no civilians involved.

We fully support Auditor Griffin Valade's suggestion that the Charter Review Commission provide the IPR with an attorney independent of the City Attorney's office, whose conflict of interest advising both the IPR and the police was exposed once again recently when the Citizen Review Committee (CRC) held its public hearing about the Chasse case.

(over)

PORTLAND COPWATCH

a Project of Peace and Justice Works

PO Box 42456

Portland, OR 97242

(503) 236-3065

Incident Report Line (503) 321-5120 copwatch@portlandcopwatch.org

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We have concerns about specific terms and procedures being written into City Code that should be taken care of on a policy level so changes would not require returning to City Council, such as the use of the term "Service Improvement Opportunity" to refer to minor complaints, discussion of the AIM database, and large parts of Sections 3.21.120 D, E, and F that repeat other parts of the code, and refer to specific mechanisms currently in place at IPR/PPB which also frequently are subject to administrative changes.

We share concerns being expressed here today as well that the "Police Review Board" does not have enough civilian representation, and that the code requiring investigations to be completed "within six months of an officer's first interview" has too many loopholes and no consequences for noncompliance.

We look forward to coming back in 90 days from the passage of this ordinance to include powers and duties of the CRC. These must include changing their standard of review, which is currently the "reasonable person" standard, to "preponderance of the evidence." We don't want to have to wait another 9 years to fix other parts of the IPR system which do not work.

Thank you

Dan Handelman
Portland Copwatch

183657

Albina Ministerial Alliance (AMA) Coalition for Justice and Police Reform Comments on the new Police Oversight ordinance

MARCH 18, 2010

From Chair, Dr. Leroy Haynes and members of the legal, research, policy and publicity committees of the AMA Coalition for Justice and Police Reform

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

We believe the ordinance on Police Oversight is moving in the right direction. However, we would like to see some changes which will make it even better and give more confidence to the community, as noted in the Ordinance's finding #4. Some of the proposed changes to Independent Police Review Division (IPR) will indeed move it closer to being an independent body. Similarly, changes to the internal "Police Review Board" (PRB) structure, which is controversial within the Bureau and the community, have the potential to build community trust.

ORDINANCE

We support the amendment being proposed by Commissioner Leonard to have Council revisit the ordinance in 90 days. This will give a chance for stakeholders and Council to work together to: (1) review and assess implementation of the changes, (2) hold IPR and the PRB accountable for the changes, and (3) incorporate important changes to the Citizen Review Committee (CRC) of the IPR.

We hope there will be clarity on who will chair the stakeholder committee, and how decisions will be made.

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION – Chapter 3.21

Several substantive changes have been made to this section, and we feel it is worth noting at the outset we support “an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct” (as described in the ordinance). However, the current proposal, while making important steps, does not reflect this goal. The major problem is that the ordinance leaves in place the IPR's dependence on the Bureau's Internal Affairs Division (IAD) in most cases for the full investigation, and when IPR does investigate, it again must rely on IAD to compel officer testimony, until the labor contracts allow for IPR to ask questions directly. It is encouraging that the changes proposed to the ordinance on March 17 allow for this possibility. We hope Council will take steps to make this truly independent form of investigation a reality.

The proposed ordinance gives vague criteria for the IPR Director to initiate investigations, broad criteria for her to dismiss complaints, and is not explicit as to whether the IPR can investigate shootings and deaths and custody; it should be. We have concerns that the current Portland

Police Association (PPA) contract explicitly prohibits IPR involvement in shootings and deaths cases.

There are other shortcomings and possible inadvertent errors, some of which will be fixed by the proposed changes released by the Auditor on March 17.

We commend the effort to grant IPR greater access to information on past use of force of the officer and history of discipline.

POLICE REVIEW BOARD CODE – 3.20.140

We applaud the idea of ingraining the Use of Force and Performance Review Boards into City Code rather than relying only on the Bureau's directives. We are encouraged by the merging of the two boards and the increased role of IPR, which moves us closer to an integrated system of accountability. It is especially encouraging to see the requirement for public reporting about the outcomes of cases, albeit with names taken out.

Our concerns regarding the proposed PRB include (1) the insufficient number of citizens on the PRB, and (2) the final discipline imposed can differ from the PRB's recommendation without explanation.

EXPEDITIOUS INVESTIGATIONS – 3.20.145

We again applaud the effort to limit the timeframe in which the investigations are conducted. However several aspects of this section remain unclear. As a general matter, this section adds a timeline for investigations to be completed (six months after the first officer is interviewed), and then proceeds to exempt a broad category of situations from that timeline. It further dilutes the timeline requirement by identifying additional situations where the timeline can be extended. Generally speaking, two years is too long to wait to initiate an investigation.

In addition, because there is no mechanism for enforcement the timelines set out in this section, they are at best advisory guidelines.

Please see the attached document for additional explanation of these concerns.

**Line Item Comments on Proposed Police Oversight Ordinance
From the Albina Ministerial Alliance (AMA) Coalition for Justice and Police
Reform**

March 18, 2010

Below are comments on the proposed Police Oversight Ordinance which detail the points laid out in our cover letter. Where changes presented by the Auditor on March 17, if adopted, would address our concerns, we have noted so in the text below.

ORDINANCE

We support the amendment being proposed by Commissioner Leonard to have Council revisit the ordinance in 90 days. This will give a chance for stakeholders and Council to work together to: (1) review and assess implementation of the changes, (2) hold IPR and the PRB accountable for the changes, and (3) incorporate important changes to the Citizen Review Committee (CRC) of the IPR.

We hope there will be clarity on who will chair the stakeholder committee, and how decisions will be made.

CITY AUDITOR'S INDEPENDENT POLICE REVIEW DIVISION – Chapter 3.21

Below are our major concerns with the changes made by this part of the ordinance:

Definitions

1. The definition of "Request for Review" has been modified to define an appeals request to have the Committee review "the findings of" an IAD or IPR investigation, rather than its prior language, which was to allow the Committee to review the investigation itself. This is troubling as the insertion of these words could constrain the Committee's authority to review the investigation. We recommend reversion to the original definition of this section, or clarification that the review can pertain to the "thoroughness, fairness and accuracy of the investigation" as well as the findings.
3.21.020.Q. (Addressed in Auditor's proposed changes)

Powers and Duties of the IPR

2. Eliminate the use of police Internal Affairs Division (IAD) to conduct investigations for cases involving contact with community members (all cases except "Type II"); instead, transfer funds being used to pay for the IAD's civilian investigators to IPR, and allow all cases to be investigated by IPR. 3.21.120 C.2.a; 3.21.120 D.1-3.
3. If IAD continues to investigate cases involving community members, give explicit criteria for why the IPR director would start an investigation. The current description

- of "based on the IPR Director's judgment" does not allow for public accountability. The Luna Firebaugh lists certain kinds of cases such as but not limited to "high-profile shootings, deaths, use of force with serious bodily harm, racial profiling, illegal searches," and when there is "high emotion in the community," or a conflict of interest. 3.21.070 D; 3.21.120 C.2.b; 3.21.120 D.4.
4. Explicitly state that IPR will have the ability to investigate and/or monitor investigations of shootings and deaths in custody. "Incidents that involve members that are of community concern" should state "including officer involved shootings and in custody deaths." Past directors, Auditors and other officials have claimed they cannot currently review such cases directly, but nothing in the existing ordinance prohibits this. Thus, it must be made explicit that IPR can review officer involved shootings and in custody deaths. 3.21.070 D
 5. Address any provisions in the Collective Bargaining Agreement that states that IPR will not be involved in shootings and deaths investigations. This needs to be addressed in the ordinance, and changed in the contract. (PPA Contract sections 61 and 62).
 6. Require IPR to issue reports on an annual basis identifying issues related to shootings and deaths; currently the draft says they "may" do so. 3.21.070 L. (Addressed in Auditor's proposed changes) (Similarly, the "may" should be changed to "shall" in 3.21.070 M).
 7. The current ordinance creates a conflict of interest where by the City Attorney is asked to approve bringing in outside legal counsel when the conduct of its employees is at issue. The ordinance should allow the IPR Director, the Auditor and/or the Citizen Review Committee to determine whether or not to hire outside counsel, with an eye toward giving IPR independent counsel through charter change. 3.21.070 O.

Handling Complaints

8. Remove the new provision allowing the IPR Director to dismiss a complaint where she determines "it is more likely than not that no misconduct was committed." If this section must remain, define the criteria the IPR Director may use for such a dismissal. The proposed language grants the IPR Director complete and unreviewable discretion to dismiss complaints under these vague circumstances. 3.21.120 C.4.

Subpoenas and Compelling Officer Testimony

9. It is our understanding that the proposed addition of subpoena power is intended to only be used on retired officers, officers from other jurisdictions or civilian witnesses. The ordinance must explicitly state how the IPR will compel Portland Police Bureau member testimony in the absence of a labor contract prohibiting direct interviews. The ordinance should state directly that IPR's investigators could compel officers to testify under threat of termination. 3.21.120 C.2.a - b, 3.21.120 D.3-4. (Partially addressed in Auditor's proposed changes)
 - a. If the subpoena power is not meant to apply to current officers suspected of wrongdoing, the Council should state so explicitly so that both officers and citizens understand the subpoena's purposes. 3.21.210.
 - b. While the idea of holding officers accountable via state obstruction laws (162.235 and 162.305) if they do not cooperate gives the board more teeth, we wonder

whether a court will intervene in cases that involve minor administrative, rather than possibly criminal, misconduct. (3.21.070 N) ¹

POLICE REVIEW BOARD CODE – 3.20.140

The following suggestions to 3.20.140 reflect our view on how to strengthen this body:

1. Voting members: There should be at least three (3) citizens on the Police Review Board as there are currently three (3) citizens total in the combined on Use of Force and Performance Review Boards. The voting members on the PRB are too heavily weighed toward the police: In the proposal, there are five members, of which three are police employees, or for shootings, deaths, injury or less lethal incidents, seven members with four police employees. 3.20.140 C.1.a.(1) / PPB Directives 335.00 and 336.00.
2. The ordinance states that members shall have access to “necessary and relevant documents.” The ordinance must clarify who determines what is necessary and relevant. The voting members should have access to all information pertaining to the incident. 3.20.140 D. 1.
3. The ordinance should set standards or criteria by which the Auditor can exercise her authority to remove citizen members from the pool, rather than at her sole discretion. At the very least, the Auditor should have to explain publicly why she has removed a citizen from the pool. 3.20.140 C.1.a.(1)(b). (Partially Addressed in Auditor’s proposed changes)
4. The Chief of Police or Commissioner in Charge can make the final decision on discipline based on the findings of the Review Board, which are merely recommendations. The Chief or Commissioner should explain in writing, publicly, how and why they made their decision especially if it differs from the Board's recommendation. 3.20.140.H

EXPEDITIOUS INVESTIGATIONS – 3.20.145

We again applaud the effort to limit the timeframe in which the investigations are conducted. However several aspects of this section remain unclear. As a general matter, this section adds a timeline for investigations to be completed (six months after the first officer is interviewed), and then proceeds to exempt a broad category of situations from that timeline. It further dilutes the timeline requirement by adding additional categories where the timeline can be extended. Generally speaking, two years is too long to wait to initiate an investigation.

1. Section A states that all investigations of Bureau member misconduct shall be initiated within 24 months of the date of the alleged misconduct. However, it is not clear how long after a complaint is made that an investigation must be initiated. Thus, for a complaint made three days after an incident, the investigation could be initiated

¹ *The ORS reads: (162.235): “A person commits the crime of obstructing governmental or judicial administration if the person hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.”
(162.305): “A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, makes a false entry in or falsely alters any public record.”

- 23 months later. The ordinance should clarify the time relationship between complaint and initiation of investigation.
2. The exceptions to the 24-month initiation time frame and the six-month completion timeframe are too broad, and should be narrowed:
 - a. One exception is where an officer is "incapacitated or unavailable." This broad exception could apply indefinitely to an officer on vacation or sick leave, or out on disability, with no clear process for reinstatement of the timeline once the officer is once again "available." 3.20.145.B.1.
 - b. Another exception allows an officer to "waive the time limit." While we appreciate that this exists for the benefit of the officer, it provides no notice or similar waiver opportunity to a complainant. This section needs to be removed, or a reciprocal waiver opportunity given to the community member complainant. 3.20.145.B.3.
 - c. Yet another exception to the timeline exists where the investigation involves more than one officer. Many investigations involve more than one officer; this exception alone could delay nearly every case. 3.20.145.B.5.
 3. Another section also allows for a pause in the clock running where the investigation involves a matter in civil litigation. This section fails to address what occurred in the Chasse investigation, in which the lawsuit was filed approximately five months after the incident. The ordinance would have required pausing the Chasse investigation into misconduct allegations during the civil litigation, which has been on-going for over three years and has not yet been resolved. 3.20.145.C.2.
 4. There is no penalty or enforcement of the timelines set out in this section. Therefore, they are at best, advisory guidelines.



The League of Women Voters of Portland

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183657

AUDITOR 03/18/10 AM10:31

March 18, 2010

TO: Mayor Sam Adams, City Commissioners, and Auditor Griffin-Valade

FROM: League of Women Voters of Portland
Elizabeth Pratt, president
Debbie Aiona, action chair

RE: Establish Police Review Board and clarify investigatory powers and complaint handling procedures of the Office of Independent Police Review (Code Chapters 3.20 and 3.21)

Introduction

The League of Women Voters of Portland has been involved in the city's police oversight system since its membership on the Storrs Committee that led to the creation of our first oversight agency, the Police Internal Investigations Auditing Committee, in 1982. A League representative regularly attends the full Citizen Review Committee (CRC) meetings and many of its workgroups. We support a system that increases public understanding of police policies and procedures, discourages misconduct through retraining and discipline, and improves police procedures by recommending policy changes. The proposal submitted by Auditor Griffin-Valade and Commissioner Leonard includes a number of important improvements to the system, but much more needs to be done.

The League encourages Council to look upon enactment of this proposal as a first step in reforming the city's police oversight system. We support the amendment creating a stakeholder group responsible for recommending additional improvements to the system, and hope that will extend to correcting any problems that are identified in this proposal. Given the complexity of the city's police oversight system and the brief amount of time available for review of the draft ordinance, additional scrutiny is essential. Furthermore, the CRC Structure Review Workgroup recently completed its draft report. It contains a number of specific recommendations for change to both the CRC and the IPR. The full CRC will consider the report at its April meeting. As the citizen body that works most closely with the system, its recommendations deserve careful consideration, as do those of community organizations and the public. Following are our specific comments on the draft ordinance.

"To promote political responsibility through informed and active participation in government."

Police Review Board Code (3.20.140)

The League supports the creation of a Police Review Board. Consolidating the existing boards into the new Police Review Board, adding the Independent Police Review (IPR) division director as a voting member, and giving the board the authority to make recommendations to the Chief on findings and discipline are welcome changes and will strengthen police accountability. The requirement for regular public reports summarizing the Board's statements of findings and concerns about training and investigations will increase the public's access to information.

Suggested additions or changes

- Public reports summarizing statements of findings and concerns about training and investigations should also include summaries of policy recommendations the Board submitted to the Chief.
- Increase the number of citizens on the Board in order to provide a more equitable balance between police bureau personnel and the public.

Expeditious investigations (3.20.145)

Setting firm deadlines for investigations of alleged misconduct and adhering to them should improve the community's opinion of the city's police oversight system. This issue was raised at the CRC's March 14 police accountability public forum. Appeal hearings before the CRC are made much more difficult when years have passed since the incident occurred.

Suggested changes

- Complainants should be extended the same rights as officers to waive the time limits and to receive written notification of time extensions.
- Reexamine the need to pause the clock when cases are in civil litigation. This can lead to a years-long delay. Holding an officer accountable for his/her actions and identifying policy and training issues as soon as possible will improve police services in Portland.

City Auditor's Independent Police Review Division (3.21)

The revised code language contains a number of needed changes to the IPR including increased authority over cases involving community members regardless of whether the Bureau initiates the complaint and granting subpoena power to the IPR.

There are, however, areas where the revisions should have gone further. The 2008 IPR Performance Review points out that, although IPR has the authority to conduct independent investigations, it never has. That fact has not changed since the report was issued. Many

“To promote political responsibility through informed and active participation in government.”

community members do not trust the police to investigate their complaints. Eileen Luna-Firebaugh, author of the IPR Performance Review, recommended that specific types of cases of community concern be investigated routinely by IPR. Further, if IPR is to conduct independent investigations it should have the authority to compel officer testimony.

Observations and suggested changes

Definitions section

- The standard of review described in the “Supported by the Evidence” definition has proved problematic since IPR’s inception. Luna-Firebaugh stated in her report that “the reasonable person’ standard is more difficult for the layperson to understand than the preponderance standard used by Portland Internal Affairs Division in its investigations, by other civilian oversight agencies, and in Civil law.” (Luna-Firebaugh, p. 119) The standard of review should be changed to preponderance of the evidence.

Powers and Duties of IPR

- Under the proposal, IPR is authorized to initiate, monitor, and conduct investigations, either with or independently of the Bureau. The League recommends that the IPR work with the CRC and the public to determine which cases are of community concern and should be investigated independently by IPR. Luna-Firebaugh suggested considering the following: high-profile shootings, deaths, use of force with serious bodily harm, racial profiling, illegal searches, “high emotion in the community,” or conflicts of interest. (This comment also applies to the Handling Complaints section of the ordinance.)
- We are pleased to see that the proposed code includes a provision for publication of policy change recommendations for public review.
- The proposal gives the Auditor the power to hire outside legal counsel when necessary, but this authority should exist without the requirement to seek the City Attorney’s agreement. The purpose of giving the Auditor this authority is to avoid the conflict that exists because the City Attorney’s office also represents the police bureau.

Handling Complaints

- The IPR needs the ability to compel officer testimony so that it can conduct independent investigations.
- At the time the IPR Performance Review was under discussion, some, including Mayor Potter, believed an avenue for appeal or reconsideration should be provided for cases involving quality of service or minor rule violations. The League continues to support this concept.

Subpoena power

- Subpoena power is an important addition to the IPR’s authority.

“To promote political responsibility through informed and active participation in government.”

Outstanding Issues - Policy

The changes proposed by Auditor Griffin-Valade and Commissioner Leonard are a good first step in strengthening the Independent Police Review Division. The League urges you to consider our suggested changes and additions along with those submitted by others. There is much work to do and many more changes that need to be made. We urge continued attention to this issue.

One area of particular interest to the League is greater transparency and public participation in policy development. The proposed ordinance incorporates elements that will increase public access to information and we applaud those additions to the code. There are other steps that also could be taken. For example, when police bureau directives are revised or adopted, they are distributed in final form at the CRC meetings. We think the public and police bureau would benefit from a discussion of the directives when they are still in draft form. The bureau should consider CRC and public input on the policies related to new and revised directives. To paraphrase an Oregonian editorial on the Chasse case, if what happened to James Chasse, Jr. was within policy the policy needs to be changed. Bureau policies should reflect not only good policing techniques, but community values as well.

Additional recommendations:

- Incorporate more transparency and public participation in development of police policy.
- Police directives in draft form should be submitted to the CRC for review and public comment before final adoption.
- Open police bureau/IPR task force meetings such as the Use of Force Task Force to public observation.
- Increase the size of the CRC from 9 to 11 members and the length of term from two years to three years.
- IPR should be empowered to review in-custody deaths as they occur with no waiting period.
- Return possible findings to: exonerated, unfounded, sustained, and insufficient evidence. Add supervisory failure, training failure, and policy failure as possible findings.

Lucinda Tate, resident and homeowner
40 years as a comm. activist,

I am here in support of the ordinance to
give greater authority to the ~~city~~ ^{FPR} ~~board~~ ^{Director}. It is time for a change. It
is time that the citizens of Portland's voices
are heard. It is time for the affected
individuals, their families and their communities
get equal access to the justice system.

Are we not as injured as the police officers
that use "excessive force" and "deadly force"
on our children, family members, our neighbors,
and our community? The answer is yes, we are!

We too need to be heard. We too need to

have justice. This ordinance is a ^{key} first step,
of many processes & procedures that need to
be addressed within the Portland Police Bureau.

I just want to make it clear that I
~~decline that the~~

support the police commissioner, the Chief of Police
and all the police officers that do the right
things for our community - serve & protect!

I do not support the Portland Police Association
and their vicious attack on our elected officials
and Police Administration for supporting the
citizens of Portland, especially my community.

I would like to close with paraphrasing one
of the Justice quotes that says "In order for
there to be NO Justice is for good people to
remain silent. I want Justice and I left my voice up
and speak out for Justice. Thank you

3-18-10
183657



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR

Independent Police Review Division
1221 SW 4th Avenue, Room 320
Portland, Oregon 97204
Phone: (503) 823-0146
Fax: (503) 823-3530
E-mail: iprcrc@ci.portland.or.us

reply June 1 2009
Office visit Sept 4 2009

May 21, 2009
Michael O'Callaghan
2364 NW Hoyt St
Portland OR 97210

IPR Case Number: 2009-C-0148

Dear Mr. O'Callaghan:

On May 18, 2009, the Independent Police Review Division (IPR) received your complaint about the conduct of an unidentified Portland Police Bureau (PPB) Officer. Specifically, you said this officer unnecessarily knocked on what you refer to as your "silver bullet" and asked that you get dressed and move along.

Not Fact

Not Fact

COPY 1

COPY 2

Date 3

Cite 4

I have reviewed the intake report, dispatch records relating to this incident and the City Code. Based upon this review, I have concluded IPR will not take any further action on this complaint. Let me explain: Based on the circumstances you described, and in accordance with Chapter 14A.50 of the City Code, an officer has the authority to contact you and ask that you move along. You also told the investigator that you have appealed two "illegal" exclusions during the month, which is the proper remedy for this concern.

Not in cite not Fact

your letter is unclear as to the exclusion which

unavailable

Although IPR will take no further action, we will maintain your complaint on file in our database. We review the database periodically to identify patterns of complaints and officer conduct that will help IPR and the Police Bureau improve service to the public in the long run. Thank you for your contribution to our effort.

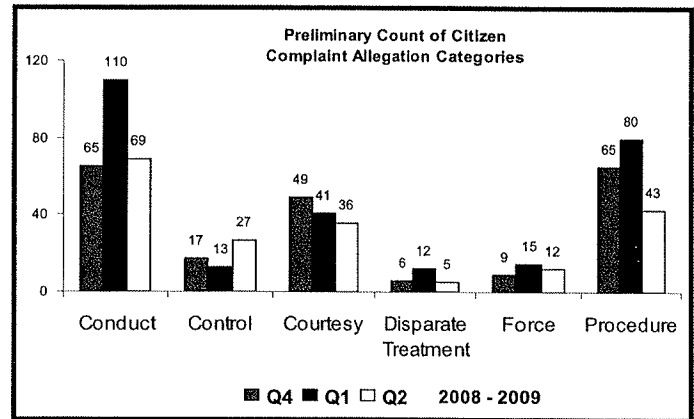
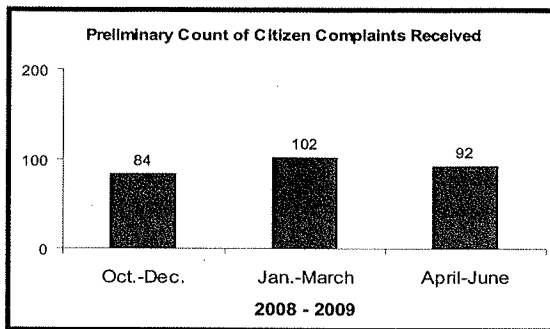
If you have any questions, please do not hesitate to contact my office.

Very truly yours,

Mary-Beth Baptista
Director

CASE STATISTICS

IPR records and tracks all citizen-initiated complaints. The following charts show the number of complaints received and the total allegations in each complaint category over the past three quarters. Most complaints contain multiple allegations, each classified and tracked separately, so allegations outnumber new cases.



IPR randomly selects a few new citizen complaints, completed investigations, and community commendations from the reporting period to provide examples for the following sections.

NEW CASES

- Complainant was stopped and ticketed “about 10 minutes” before filing complaint with IPR claiming he was unfairly ticketed for failing to wear a seatbelt and driving without insurance. **Status:** IPR staff dismissal due to there being another remedy and no misconduct by officer.
- This complaint originated at one of the precincts and was forwarded to IPR, stating that the subject officer failed to take the appropriate action in dealing with a dog bite incident (canine not affiliated with the Bureau) at a transit camp near I - 84 and that the officer failed to produce a business card when one was requested. **Status:** Case handled as a service complaint.
- Complainant came into the IPR office complaining about 10 citations he received from either Portland Patrol, Inc., or the Bureau ordering him to move his “silver bullet” – a coffin-like wooden structure complainant built for secure sleeping on city sidewalks. **Status:** Dismissed due to there being a judicial remedy available to complainant.
- While waiting for a Greyhound bus in Old Town, complainants were arrested for offensive littering. While in custody, complainants state that they were improperly searched and handcuffed, left for an extended period of

time in an unventilated patrol car, and cited for offense in retaliation. **Status:** IPR completed an initial intake and referred case to Internal Affairs Division (IAD) for investigation.

MEDIATIONS

The IPR Mediation Program is an alternative to the disciplinary process that permits community members and officers to meet with professional mediators to resolve their issues together.

Three cases were mediated last quarter. One of these cases was originally declined by the supervising commander but he later determined that it should be handled through mediation instead.



City Hall was originally built in 1895 and renovated in 1998. It houses the Auditor's IPR office, which is located on the third floor. CRC workgroup and public meetings are held in City Hall.

Michael O'Callaghan
133 NW 6 Avenue
Portland, OR 97209

November 12, 2009

City of Portland Auditor
1221 SW 4th Avenue
Portland, OR 97209

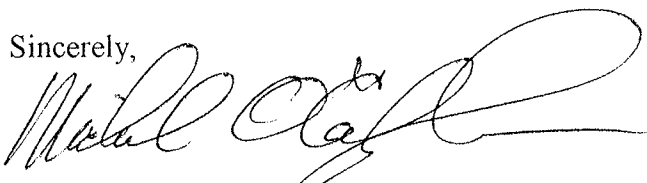
Dear Auditor,

It is my understanding that by law you are responsible for the Ombudsman and the Independent Police Review Committee. I have filed two separate complaints with the Ombudsman (see attached) and have yet to receive a written response to the first complaint. I find this response time unacceptable.

I filed my complaint with IPR and got a quick illogical and error-filled response. My three meetings and efforts at correction have been fruitless. I have had other incidences of police misconduct; however filing a complaint is laughable. Reference: the second quarter 2009 IPR Report, page 3, second to the last paragraph. Factual error: I only received one citation. Also, the report says "Dismissed due to judicial remedy available." That is not factual. There is no judicial remedy available.

Please stimulate a logical timely response. I would like to know the results of you actions by mail using my address above.

Sincerely,



Michael O'Callaghan



CITY OF

PORTLAND, OREGON**OFFICE OF THE CITY AUDITOR**
LaVonne Griffin-Valade, City Auditor

Office of the Ombudsman

Michael Mills, Ombudsman

1221 SW 4th Ave, Room 140

Portland, Oregon 97204-1987

Phone: (503) 823-0144 Fax: (503) 823-4571

E-Mail: ombudsman@ci.portland.or.uswww.portlandonline.com/auditor/ombudsman

November 18, 2009

Michael O'Callaghan
133 NW 6th Ave
Portland OR 97209

Dear Mr. O'Callaghan:

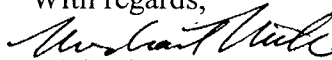
City Auditor LaVonne Griffin-Valade shared with me a letter that you sent to her last week concerning several complaints that you have filed with the Office of the Ombudsman and the Independent Police Review Office (IPR). While I cannot speak to the complaints that you have regarding police conduct, as that is an issue for IPR to respond to, I can respond to your complaint about the Office of the Ombudsman.

We have spoken on multiple occasions here at City Hall about several issues that were of concern to you. One of the issues you spoke to me about was the contracted security personnel operating under the direction of the City Parks and Recreation Bureau. As I explained, our office does not have jurisdiction over contractors, and I declined to investigate this complaint. In another incident concerning your tent along the east bank of the Willamette River, you indicated that you were awaiting a response from Mark Warrington. I communicated the issue to Mark Warrington who reviewed the matter and responded to you about your concern.

We also discussed some of your concerns related to homeless policies. I advised you that these matters were currently being addressed by the Commissioner Nick Fish, who you had already contacted. I informed you that our office does not have jurisdiction over elected officials.

I hope this clarifies why the Office of the Ombudsman responded to your issues in the manner in which we did.

With regards,


Michael Mills
OmbudsmanCc: LaVonne Griffin-Valade, City Auditor
Mary-Beth Baptista
Mark Warrington

Michael O'Callaghan
133 NW 6th Ave.
Portland, OR 97209
503-810-1231

December 4, 2009

Michael Mills
Ombudsman
City of Portland
1221 SW 4th Avenue, Room 140
Portland, OR 97204

RE: Reply to November 18, 2009 Letter

Dear Mr. Mills,

Thank you for your reply to my July 14th, September 4th and October 15th letters.

As to my complaint about park employees, I asked you to investigate unlawful behavior by City Park employees. You have failed to follow through with my request. I understand Mr. Warrington responded to me. Your response is a non-sequitur argument regarding the City Park employees unlawful actions. Please verify their actions and respond to me with your finding and recommendations. I would appreciate a more timely response.

As to PPI & PPS, I understand you have no jurisdiction. My complaint deals with the City employees that monitor the PP's contract compliance. The contractors are failing to fulfill the terms of their contract with the City. I would assume a contract would be voided if the contractor failed to meet the terms of the contract. Perhaps I failed to be clear in communicating my issue.

I understand you have no jurisdiction over elected officials so there is no need to repeat this situation to me.

I also understand you do have jurisdiction over the Hearings Office. I hope I have communicated clearly that no exclusions are lawfully generated. I have raised this issue with you a number of times. You have failed to address this issue in your reply to me. Please respond to this issue.

Yours in Action,

A handwritten signature in black ink, appearing to read "Michael O'Callaghan", with a long horizontal flourish extending to the right.



CITY OF
PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR

Independent Police Review Division

1221 SW 4th Avenue, Room 320

Portland, Oregon 97204

Phone: (503) 823-0146

Fax: (503) 823-3530

E-mail: iprcrc@ci.portland.or.us

January 6, 2010

Michael O'Callaghan
133 NW 6th Ave
Portland, OR 97209

IPR Case Number 2009-C-0146

Dear Mr. O'Callaghan,

It was a pleasure meeting you and discussing your issues revolving around Director Baptista's dismissal of your compliant. I believe Director Baptista's dismissal of your compliant was appropriate due to the reasons she explained in her May 21, 2009, letter to you. In your request for reconsideration of this decision, you submitted to IPR a copy of Director Baptista's dismissal letter with notations where I believe you disagreed with her decision or at least her rationale.

As Investigator Taylor explained when you delivered your protest letter, IPR does not have the authority to release Bureau of Emergency Communications (BOEC) property, such as dispatch records to members of the public. You can directly request such records from BOEC. The date of the incident that the Director was referring to in her letter, is the date **May 18, 2009**, that the unidentified officer knocked on your "silver bullet." She listed the officer as unidentified due to IPR being unable to discern which PPB member knocked on the silver bullet. Director Baptista also referenced the appropriate section of the **Portland Cite Code 14A.50**, which regulates conduct on public property or rights of way.

I hope this letter has been helpful and clarified IPR's decision making process to you.

Sincerely,

Constantin Severe
Assistant Director

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your pics

Privacy

Swedish news report: Police Shoot Too Often

From: **Rick Wicks** (Rick.Wicks@economics.gu.se)

Sent: Fri 5/29/09 7:11 PM

To:

Apropos of this article http://www.nytimes.com/2009/05/30/nyregion/30cop.htm_r=1&hp (Off-Duty Officer Is Fatally Shot by Police in Harlem), below is an article I translated (loosely) from Wednesday's paper here in Göteborg. You find it interesting. (Sweden has about 9 million people overall, so to compare the U.S. one would have to scale up by a factor of 34.) /Rick

Police Shoot Too Often

Göteborgs-Posten (Goteborg, Sverige/Sweden), Wednesday 27 May 2009 (p. 11)

Police need to learn when they should shoot and at what they should shoot. W too many meaningless shots are aimed at cars. "There is no point in shooting a car, you can't kill it," says the police superintendent responsible for weapon training in Western Sweden. Despite that, police in Western Sweden shot at cars on not less than 11 occasions during 2003-2008. "Certainly one can stop a car with our weapons. But it takes hundreds of shots. With help from the military we have shown that," he says.

Better to Take Cover

Nevertheless he says he understands that colleagues in frustration shoot at cars when they believe that they will be run over. "But it is better to take cover than to shoot." He is critical that so few resources are invested in training police in the right to use their weapons. "It is something that the police administration does NOT invest in," he says. "Because we are responsible for loaning out material for such training, we know that there is seldom any interest in it."

126 Shooting Occasions

In the three metropolitan areas of Sweden [Stockholm: 2 million people; Göteborg almost a million; Malmö, well over half a million], police fired shots on 126 occasions during 2003-2008, an average of 21 times per year. The national police superintendent who collects reports on shootings sees no tendency of police becoming more shoot-happy over time. "The number of occasions when police shot has been fairly constant," he says. Statistics for 2003-2006 include 106 occasions when Swedish police fired their weapons in the line of service: 33 warning shots, 32 accidental shots, and 41 aimed for effect. Of the shots fired for effect, 21 were aimed at people, 15 at cars, and 5 at dogs. Four people as a result, 11 were injured, and in 6 cases the police missed.