



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor

Michael Reese, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

November 23, 2010

TO: Police Oversight Stakeholder Committee

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

Thank you to all who participated in the Police Oversight Stakeholder Committee. I appreciate the time, effort and hard work all of you put into this project. Though the members of the Stakeholder Committee came from diverse backgrounds and had many differing opinions, I believe everyone shared a strong desire to improve the service provided by the Police Bureau, the Independent Police Review Division (IPR) and the Citizen Review Committee (CRC).

As an organization, we ask all community members to work with us in our effort to achieve the key outcomes that are listed on page two of this report. In addition, as Chief, I am committed to building trust between the Portland Police Bureau and the community we serve. I believe that continued dialogue on difficult issues with honest debate and respect for differences is a key element in achieving this.

Our responses to your recommendations are on the following pages, and though there are some areas where we have not come to agreement, there is much common ground. Again, thank you for your time and commitment to improving this important process in our community.

I. IPR authority & structure

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

B. Ensure that IPR investigations include specified more serious complaints

The Police Bureau welcomes IPR involvement in any of its investigations. The decision for IPR to conduct independent investigations rests with the Director of IPR and the City Auditor. In order to improve service and build trust, the Police Bureau would like feedback from IPR regarding any of the Bureau investigations which IPR believes were not as complete and thorough as possible.

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

Agree; currently IPR is involved in the administrative investigation from the beginning. The Police Bureau is evaluating other possible processes which would get the administrative investigation started earlier as recommended in previous PARC reports. This would include real time notification and involvement of IPR.

11/24

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

Disagree; this is a matter that has not been an issue; the Police Bureau is not aware of any investigation where a question from IPR was not asked and thoroughly covered in the investigation. This change would also need to be part of the collective bargaining process.

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

Agree; the Bureau is supportive of the Auditor's responsibility for maintaining objective, neutral investigations.

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

The Police Bureau has no opinion on this.

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

IPR currently reviews and/or actively participates in all administrative investigation, including those involving command staff.

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

Agree; the Portland Police Bureau supports the continued development of a diverse workforce, and will strive to do so while maintaining consistency in the principle of equal employment opportunity for all employees and prospective employees.

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

Disagree; the Police Bureau believes this would contribute to the distrust between the community and the police, as well as Police Bureau members and its management. The Police Bureau would like to hear about specific cases or incidents where the IAD investigation has been inadequate so that it can improve on its investigations and work toward building trust with the community.

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

The Police Bureau has no opinion on this (see I).

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

Agree.

II. CRC and Council oversight authority/structure

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

Disagree; the current role of the CRC is to be an objective body that is responsible for determining if the commander's or review board's recommendation is reasonable and supported by the investigation. It is not the role of the CRC to hear new evidence or re-investigate the case. It is appropriate for the appeal standard to remain at "supported by the evidence."

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

Agree, the Police Bureau is more that willing to consider recommendations directly from the CRC.

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

Agree.

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

Agree.

E. Clarify CRC authority to present directly to Council

Agree.

F. Permit CRC to compel testimony

Disagree; the Police Bureau strongly believes that the appeal process should remain an appeal process. The CRC should be an objective body that reviews the investigation and the findings to determine if the findings are reasonable and if the investigation was thorough. It is not the role of the CRC to re-investigate the cases by calling witnesses or hearing new evidence. Participation in the appeal process should remain voluntary.

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

Disagree; City Council is the final arbiter of the review process. City Council provides a final decision on appeals where the CRC and the Police Bureau cannot agree. During this part of the process, City Council decides if the recommended finding is reasonable and supported by the investigation. If Council feels that the investigation is not complete and it does not support the finding, then Council will reflect that in their final decision.

H. Increase size of CRC

This decision should be addressed by the CRC and the City Auditor.

I. Allow CRC to review proposed allegations prior to investigation

Disagree; this would add additional time onto a process that the Police Bureau is making every effort to accelerate. During the intake process, allegations may be reworded to more accurately fit the alleged policy violation, and as the investigation unfolds there are often additional allegations added and investigated. IPR already reviews proposed and changes to allegations and monitors the course of the investigation throughout the process.

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

Disagree; the IPR Director reviews the intake of complaints, including dismissed complaints, service improvement opportunities and the formulation of allegations. The CRC currently audits these functions and makes recommendations to IPR and the Police Bureau on areas of needed improvement.

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

Disagree; Complainants who are not satisfied with the handling of a service improvement opportunity can already discuss their case with the Director of IPR and the Captain of Professional Standards. CRC meets once a month and this would add a substantial amount of time to the already lengthy process. CRC's role is to review the decisions made by IPR and the Police Bureau and make recommendations for improvement.

L. Provide dedicated staff to support the CRC

The Police Bureau has no opinion.

III. Openness, usefulness, and speed of reporting

A. Develop categories of findings regarding the specific allegation that includes four categories, instead of the current three.

Disagree; this would be an unnecessary step backwards. In the past, there was an inordinate amount of time spent determining whether an allegation was unfounded or insufficient evidence. Both of these are covered in the current finding of "unproven."

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

Disagree; this should not be part of the formal "finding." Internal Investigations has already added three "additional recommendation" categories to the findings cover sheet. These are: 1. Training Review, 2. Policy Review, and 3. Supervision Review. These recommendations can be made by the Commander, Assistant Chief, Captain of Professional Standards, Director of IPR, the Police Review Board, and the CRC. In addition, direction to review in these areas can be made by the Chief of Police and the Police Commissioner.

C. Replace the term "service improvement opportunity" with the term "non-disciplinary complaint"

Disagree; the Police Bureau recently changed the term to "Service Improvement Opportunity" because it better reflects the intent of this process. To change again would only add unnecessary confusion.

D. Ask opinion on complaint-handling preference

Disagree; the decision should be made on the facts of the particular case and the knowledge of the officer's past complaints in this area. The decision on how to best adjudicate the complaint should be made by the IPR Director and the Captain of Professional Standards.

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

Disagree; release of records is governed by state law. The Police Bureau should be responsible for releasing Police Bureau documents and IPR should be responsible for releasing IPR documents.

F. Make certain CRC review documents available to the public

Disagree; the CRC is an independent and impartial body tasked with being the eyes and ears of the community in order to provide fair and objective oversight without infringing on the confidentiality rights afforded by bargaining agreements and Oregon State Statutes. These documents are confidential and protected by State Law. ORS181.854, ORS192.501 and ORS192.502.

G. Required reporting on reasons for long investigations

Disagree only in how and to whom the reporting is done; the Police Bureau should report and/or document on the progress of all our investigations and the Police Bureau does this on a regular basis, (this reporting has always been to the IPR Director or the City Auditor). The CRC can ask for and should receive an explanation during an appeal process or during an audit, but there are many times when the delay of an investigation may be protected information that cannot be released in a public meeting. Examples include: unavailability of key persons due to medical reasons/information, the case is directly attached to an ongoing confidential criminal investigation, or the investigation has led to additional allegations that are not ready to be made public yet due to investigative concerns. The Police Bureau does not see this as a role for the CRC.

H. Make certain task forces public

Disagree; the Police Bureau believes this would be counterproductive. IPR and the CRC have been established as independent representation of the community. The Police Bureau regularly has members of IPR or the CRC give input and assist with the review of its policies. Each directive is up for review annually and to require every internal review meeting to be open to the public would slow down the process for making positive change.

I. Mandate investigative resource levels

The Police Bureau feels strongly that the Police Bureau and Police Commissioner should manage their own resources.

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

The Bureau agrees that an explanation should be documented, and this is usually done in the proposed letter and the final letter of discipline to the employee. However, to require a public written statement on each case could infringe on an employee's protected privacy rights. Reporting this information to the Director of IPR would ensure there is review and monitoring in this area.

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

This is a subject for the IPR Director and the City Auditor.

L. Report on aspects of the "mitigation" process

Agree; these statistics will be available as the Police Bureau moves forward and this could be captured in IPR's annual report, but that decision should be from the Director and the City Auditor.

M. Order another expert review in 2012

This would be a decision for the City Auditor. The Police Bureau welcomes the review and any feedback that would help us improve our service.

N. Hold another stakeholder review

This is a decision for City Council.

IV. Police Review Board structure/process

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

Disagree; the Police Bureau believes it is important to have commanders hold their employees accountable and having the involved RU commander vote on the Review Board helps accomplish this. The division commander has an understanding of the performance expectations at their division and an understanding of the work environment at their precinct or division. Division commanders need to own the decision that comes out of the PRB, and voting on the outcome is by far the best way to ensure that happens.

B. Add another citizen member to PRB for use-of-force

Disagree; the current structure of the board is working. The addition of the IPR Director as a voting member and the removal of two Assistant Chiefs as voting members, as required by the new city ordinance, create an appropriate balance.

V. Complaint-driven PPB policy improvement process

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

Disagree; the Police Bureau often seeks input from both IPR and CRC, in addition to the Bureau's Public Safety Action Committees, Advisory Boards and the Chief's Advisory Panel. However, to require each draft to be reviewed by the CRC may slow an important process. The Chief of Police should be able to make an immediate change in policy when necessary. The Chief of Police and the Police Commissioner are ultimately responsible for the policy decisions of the Police Bureau.

VI. Non-complaint-driven PPB improvement process

A. Request that Auditor's Office provide regular reports on the status of the Bureau's Employee Information System and on independent analysis of police stop data

Agree



MICHAEL REESE
Chief of Police

Cc: Mayor Sam Adams
City Auditor LaVonne Griffin-Valade