



NEW DEVELOPMENTS AT "REVIEW BOARD": AUDITOR, DIRECTOR SLIP INTO INSTITUTIONAL ROLES

— While Citizen Review Committee Holds Hearing, Case Review, and Wavers on Outreach Efforts —

The past two years have shown promise at the "Independent" Police Review Division (IPR) and its Citizen Review Committee (CRC). In May 2008, Mary Beth Baptista came on board as IPR Director, willing to make improvements which have led, for example, to the CRC hearing three cases and holding two "case file reviews" in 2009.

Only six hearings were held in the four previous years, with one hearing in three of those four years. In May 2009, Auditor Gary Blackmer, who created the IPR, was replaced by Auditor Lavonne Griffin Valade, who also promised a fresh perspective, including more IPR/CRC presentations to City Council. Yet both Baptista and Griffin Valade are showing signs of being bound to institutional inertia. It will be interesting to see how this tension is balanced by two new members appointed in October, replacing two members who resigned early in 2009.

Below we report on: the most recent CRC hearing and case file review, both involving somewhat high-profile incidents; CRC outreach efforts; a disconcerting comment by a guest from the Bureau; changes made, not made, and re-made to procedures; and the new members.

Case 2009-x-0005: Officers Mistook Appellant for Jaywalker, Felt Threatened by Camcorder, Used Taser & "Beanbag" Gun

In 2006, officers chasing a jaywalking suspect came upon Frank Waterhouse in an auto body yard, mistook him for the suspect, feared his camcorder was a weapon, then simultaneously tasered him and shot him with lead pellet bags fired from a shotgun. Waterhouse and attorney Ben Haile won a civil suit against the City in September for \$55,000 (see p. 1). For their IPR complaint, thirteen allegations were identified, though IPR lumped all four officers' use of force together and dismissed the complaint that Waterhouse's constitutional rights were violated.

At the CRC's "case file review" (CFR) of the appeal (#2009-x-0005) held in November, IPR Director Baptista and the Internal Affairs Division (IAD) made a lengthy (but not exhaustive) presentation about what materials were reviewed and who was interviewed. CRC previously established the CFR as a means for them to determine whether there was enough material to proceed with an appeal hearing. While the presentation was somewhat useful, it felt a bit like a teacher rewriting the students' homework when she felt their book report wasn't adequate.

IAD revealed that they had not been able to find any of the civilian witnesses to the incident, claiming Haile also was unable to locate them. We have since learned he did locate them for the civil trial, using private investigators. IAD listed its process as having looked at the Portland Police Data System, which tracks police contacts, but nothing about other efforts such as, say, looking in a phone book or on the internet. They also did not interview the Emergency Medical Technician from the Fire Bureau who came to treat Waterhouse. IAD investigator Barry Renna said he acquired a copy of the EMT's report in anticipation of the CRC asking for it—but not during the original investigation. He did not ask for Waterhouse's medical records.

IPR dismissed the constitutional rights claim because, they said, the court was the best place to determine that claim. Waterhouse's criminal charges were dropped and the civil case led to the City paying out money—neither resulted in discipline for the officers.

CRC member Rochelle Silver, fresh from a trip to the National Association for Civilian Oversight of Law Enforcement, insisted that the witnesses needed to be found and interviewed. CRC voted 7-0 to have IAD locate the then-property owner, find other witnesses, and conduct interviews.

As a side note, the IPR's presentation did not include the findings (which allegations were Sustained, Exonerated, etc), and it was never made clear whether Waterhouse, the complainant, filed the appeal, or whether an officer had filed it because of a "Sustained" finding.

Case 2009-x-0004: Officer Hit Man's Son in the Face with a Flashlight, Failed to File Report

A previous case (#2009-x-0004), heard in full at the CRC's October meeting, involves a September, 2007 incident between Shane Grundmeyer, a 38-year-old man, and Portland Police. Shane's father, Michael Grundmeyer, who has a background in law enforcement, filed the complaint and the appeal. The officer, Robert Jackson (#37241), did not appear at the CRC hearing.

According to the narrative presented, Shane Grundmeyer was followed by Officer Jackson and a cadet ride-along because he was seen near a suspected drug house. The officer conducted a stop of Shane's vehicle and approached. Shane told his father that the officer was in plain clothes and driving an unmarked car, and that he did not understand what the officer was saying when he talked to him. Shane said the officer struck him in the face with the flashlight, and, fearing for his safety, Shane drove away from the stop.

The original findings were: (1) The use of force was "Unproven," which could mean one of two things; in this instance, the police meant that the incident did not occur as alleged (formerly known as "Unfounded," as opposed to the other possible meaning, "Insufficient Evidence"). However, Mr. Grundmeyer says there are witnesses who were not interviewed who could have seen the struggle; and (2) The failure to write a report was "Exonerated" because the officer was not required to write the report if he did not use force.

To their credit, the CRC voted 6-1 to send the case back to Internal Affairs (IAD) for more investigation. The CRC voted on this motion a second time after interjection from Director Baptista, who began cross-examining Commander Mike Crebs as to whether new information would cause him to change the finding. In CRC's second vote to send the case back, they added instructions to interview "whomever" about the flashlight, and to find out more about the patrol car/plainclothes issue.

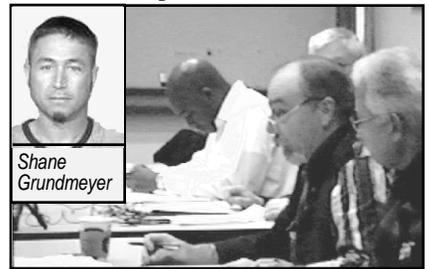
It appears that IPR will be involved in interviewing the civilian witnesses identified by Mr. Grundmeyer, because they were reluctant to talk with police at IAD.

As to the allegation about the missing police report, if the officer did use or may have used force (if the force complaint is either Sustained or found "Unproven" for the second reason—Insufficient Evidence), that finding cannot stand as "Exonerated." Thus, the CRC unanimously (7-0) voted to send that allegation back as well.

CRC Defers Opportunity to Hold Hearing on Chasse Case

At the October meeting, CRC Chair Mike Bigham suggested that the Committee hold a public forum on the death of James Chasse, Jr, especially in light of recent developments reigniting community concern about the case (p. 1). The group backed down for fear that they had no experience holding such forums. One of the most vocal opponents was Vice Chair Hank Miggins, the only member who was on CRC when they held two public forums in September, 2002 shortly after two protests were attacked

by police (PPR #28), and another in June, 2003 regarding the structure of IPR (PPR #30). (continued on p. 3)



Shane Grundmeyer

Michael Grundmeyer pressed for justice for his son Shane. Shane was killed by Washington County deputies in 2008, five months after the incident with the Portland Police (PPR #44). Grundmeyer appeared at the October CRC meeting.

A February 23, 2008 *Oregonian* article claims Officer Jackson was working for the Drugs and Vice Division at the time of the stop. If so, he would have been in plain clothes and an unmarked car. However, Jackson's report states he was with East Precinct in uniform and on patrol. It is not unheard of for police reports not to match facts.

CRC SENDS LETTER OF CONCERN IN AUGUST CASE

As a follow-up to the second appeal filed by the complainant named Iacuzzi, #2009-x-0003 (PPR #48), in which the CRC did not complete the hearing but sent a letter to the Assistant Chief, concerned that two officers had harassed Iacuzzi, CRC members voted 6-1 to send a copy of the letter to the complainant. This should have been a matter of common courtesy, but the affirmative vote was a welcome action.

Contact IPR at 503-823-0146



The League of Women Voters of Portland (LWV) sent a letter to the CRC urging them to hold some kind of public event around the Chasse case. The LWV pointed out that the outside expert being hired by Griffin Valade to examine the investigation will only be allowed to contact citizens approved by the Auditor and IPR Director.

Assistant Chief Implies All Officers Should Crack Down Harshly on the Poor

At the September meeting, Assistant Chief Brian Martinek was invited to discuss the changes to the Bureau's precincts, which were cut from five to three in June (PPR #48). When Portland Copwatch (PCW) raised the concern that Central Precinct's harsh policies against homeless and poor people had migrated across the river, in the form of a raid on St. Francis Dining Hall days earlier (see p. 9), Martinek replied that the Bureau thinks police should behave in the same way throughout the City. It appears this means that whatever community policing efforts were in place at St. Francis are secondary to heavy-handed tactics.

CRC has not had a civil rights attorney present to the group since November, 2006. IPR's plan for new member orientation does not include a presentation about constitutional rights.

CRC Keeps Improving Appeals Process, Needs More Work

While the CRC has improved the process for appeals hearings, instituting a scripted welcome that explains the process, and having its members present the case background in place of the IPR, there is still more work to be done.

PCW continues to urge the CRC to go beyond the appointment of an "Appeals Process Advisor" (APA). The APA helps the complainant prepare their appeal by explaining the protocols of a hearing, but is not allowed to talk. After the October hearing, one CRC member applauded former CRC member/APA Eric Terrell for passing a note to Mr. Grundmeyer during the appeal. With a process as complex and nuanced as CRC appeals, civilians filing complaints need more than a note-passer; they need an advocate.

On the bright side, CRC voted in November to formally adopt their procedure using two members to present each case. Although this had been done in 2002 and 2003, IPR staff took that role back after a mass resignation of five CRC members (PPR #30).

Behind Closed Doors: Auditor Rewrites Procedure; Director & Bureau Change "Service Complaint" Name

Despite the difference in style between Auditor Blackmer (frequently defensive and dismissive of the public) and Griffin Valade (open to criticism and public input), the new Auditor has an ingrained bias that may continue to hamper IPR's potential. One of CRC's most important functions is to recommend policy changes to the Police Bureau. They have only done so three times in eight years: CRC's Profanity, Hooper Detox, and Tow Policy reports received mixed reception from the Bureau.

The CRC's Protocol Work Group recently spent months redrafting into a clear set of linear instructions the confusing policy protocol created as a chart by IPR's first Director, Richard Rosenthal. In August, Griffin Valade attended a Work Group meeting to lay down the law: the protocol needed to exclude the public from seeing draft CRC policy recommendations until after the Bureau had a chance to sign off on them. This, she said, echoing Blackmer, is how auditors are trained.

While located in the Auditor's office, the IPR and CRC are not required by ordinance to behave like auditors. Thus, there is a tension between anyone with Griffin Valade's training and what the public expects from a review board. In recognition of this tension, the Work Group rewrote the protocol to straddle the demands of the Auditor and the need for public input to avoid making bad policy recommendations. CRC adopted the protocol at its October meeting.

In November, Griffin Valade appeared at the CRC general meeting with a rewritten protocol, claiming that she has ultimate authority and

anything CRC suggests is just advisory. "As the elected official, it's incumbent upon me..." she began her talk, going on to compare the CRC to her office's Citizen Campaign Committee (CCC).

However, CCC's recommendations focus on changing elections laws, not mere policies. Griffin Valade said she cleaned up the CRC's grammar (reporting that she was an English major) and tuned up the protocol "for consistency and efficiency." Work Group member Miggins was taken aback. Each re-draft had been given to the Auditor for comment, and she'd had a chance to comment before the CRC vote. To her credit, the protocol retains the CRC's ability to take public input before adopting the final report; yet by this time, the Bureau may have already made changes based on the original draft.

The Auditor and Director believe the "ordinance is very clear" about how policy recommendations are made; yet the law lists "make policy recommendations" as a power of the CRC while directing them to "work with" the IPR to create such recommendations. Nowhere does it give the Director and Auditor "final say."

In another change made without CRC input, Baptista began referring to "Service Complaints" (allegations which

don't rise to the level of discipline) as "Service Improvement Opportunities." PCW has long called for the term "Service Complaint" to be changed, since a person with a badge, gun, pepper spray, baton, Taser, handcuffs, and the power of law is not the same as, say, a waiter. Even rudeness from an officer is far more serious than receiving a dirty fork.

Unfortunately, they changed the wrong term—we objected to the word "service," but they replaced the word "complaint." Yet a complaint is what prompts IPR to suggest a supervisor talk to an officer in the first place. In November, CRC member Loren Eriksson asked whether the term had been formally adopted by the Bureau. Director Baptista said it was, with her support.

The IPR should have learned the lesson not to change such terms without input after the finding of "Unfounded" and "Insufficient Evidence" were changed in 2007 (PPR #42).

NEW MEMBERS SHOW PROMISE

In October, Council inducted four new and two returning CRC members:

—Jeff Bissonette, the 2008 City Council candidate who slept out with homeless protestors at City Hall last May during sit/lie and anti-camping law protests (PPR #45);

—Myra Simon, who has done work with homeless youth at Janus Youth Programs;

—Ayoub Ramjan, who sits on the Arab/Muslim Round Table for police to sensitize them to the needs of those communities. In February, he replaces Joann Jackson; and

—Jamie Troy, nominated by Mayor Adams to replace Mark Johnson, another attorney who is leaving when his term expires in February. Returning are Eriksson, nominated in late 2003 by Commissioner Randy Leonard and very active since then; and Miggins, whose low attendance record and reluctance to change the way things have been done in the past indicate it may be time to take a break.

WORK GROUP NEWS:

The CRC's Structure Review Work Group is writing its report, anticipating their proposed changes to protocols, ordinance, and maybe the City Charter sometime in early 2010. Work Group Chair Jackson and member Johnson have vowed to finish this work after their terms end. The effort is based on the review done by Eileen Luna Firebaugh in 2008 (PPR #44).

The Bias Based Policing Work Group met with Chief Sizer a second time in October, and say they are working on a final report. However, they've conducted no public forums or national research about racial profiling or other biases, and there have been no public meetings of the group since May.

The PARC work group is also writing its report, covering the Police Assessment Resource Center's 2005 and 2007 analyses of Portland Police shootings and deaths in custody. The report should be out in early 2010, addressing issues such as whether IPR should be more involved in reviews of these most serious cases of potential police misconduct. ■



Assistant Chief Brian Martinek said that all people should be treated the same way by police at the September meeting—we think he meant all should be dealt with harshly.



Auditor Lavonne Griffin Valade (R) laid down the law at the November CRC meeting.

PORTLAND COPS WOUND MAN IN FIRST SHOOTING IN 1.3 YEARS

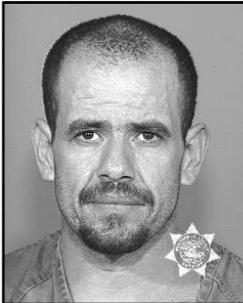
Same Officer Involved in Previous Incident, Similar Circumstances Stir Suspicious

Taser Changes Policy, Fearing Chest Zaps Can Kill

Oregon Woman Hospitalized After Taser Hit



Breaking News: On August 24, Portland police wounded a man in their first shooting in 466 days." Very few people likely noticed this message we included on the subscription return slip in *People's Police Report* #48, but because the incident occurred after our deadline, we're reporting more about it now. Officer Russ Corno (#26712) chased Osmar Lovaina-Bermudez to a shed near SE 172nd and Pine. Lovaina-Bermudez, 36, a suspected armed robber, allegedly "confronted" Corno, who shot and wounded him.



Osmar Lovaina-Bermudez (Multnomah County Sheriff's Office booking photo)

If this sounds familiar, it is because Corno is the same SERT (Special Emergency Response Team) officer who shot at Derek Coady in May, 2008, before Coady allegedly killed himself (PPR #45).

The fact that Corno is on the SERT team may make him more likely to be engaged in physical confrontations, but that both men were shot in outbuildings without witnesses by the same officer raises many questions.

Portland Copwatch asked some of these questions to Chief Rosie Sizer, Auditor Lavonne Griffin Valade, and "Independent" Police Review Division (IPR) Director Mary-Beth Baptista in an August 27 letter. We asked that the IPR launch an investigation into the shooting and Officer Corno's repeat behavior, since the IPR ordinance lists lack of diligent duty by the Internal Affairs Division (IAD) investigating an officer as one reason for IPR to conduct independent investigations. We also demanded that they reject a proposal drawn up by the Police Assessment Resource Center (PARC) at the behest of former Auditor Gary Blackmer, which essentially left the outside expert agency doing very little analysis, leaving the Bureau to review its own shootings and deaths cases.

We're glad to report that the PARC recommendation was not only rejected, but pulled off the IPR's website. However, as far as we know, IPR is not investigating Corno or the shooting.

The 466 days between these two shootings marked the longest

period without a Portland Police shooting since our inception in 1992—the previous long stretch was 351 days in 1995. Technically, Portland police were involved in at least three shootings, though. PPB was present when a railway officer shot George Hawkins on October 25, 2008 and Portland officers also shot and killed at least two dogs, on November 24, 2008 and April 13, 2009 (PPRs #46 and 47).

It's also worth noting that of the three "official" shootings in 2008 and 2009, Corno instigated two of them, and the third (of Jason Spoor, two days before Coady was shot) was by another repeat shooter, Officer Scott McCollister. McCollister was the officer who killed Kendra James at a traffic stop in 2003 (PPR #30).

Incidentally, Lovaina-Bermudez was released from the hospital and charged with armed robbery and other crimes, perhaps by the same grand jury that cleared officer Corno of any wrongdoing two days earlier (*Portland Tribune* on line, September 3). Police said they found a gun they thought belonged to him "a short distance" from where he was shot (*Tribune* on line, August 25). Fueling the right-wing support of the officer's actions, Lovaina-Bermudez was apparently previously placed on an immigration hold on January 22, 2009.

OTHER OREGON SHOOTINGS NEWS:

Tillamook: On October 23, two Tillamook County deputies shot and killed Michael Elmo Shepherd, age 68, who allegedly was armed with a hatchet; the County District Attorney did not even send the case to a grand jury (*Oregonian*, November 3).

Wallowa: On October 7, Undersheriff Steve Rogers and Detective Neil Rogers of the Wallowa Sheriff's Office shot and killed Roy Bass Jr, 52, at a campground near the Eagle Cap Wilderness. Bass allegedly pointed a gun at forest service workers, and then at the police after they were called in. The grand jury found no wrongdoing (*Oregonian*, October 21).

Cornelius: On November 21, Washington County Deputies and Cornelius police shot and killed Shawn Schumacher, 28, who had shot and fatally wounded a random car passenger in Hillsboro, then continued firing his gun as he led police on a chase to Cornelius, where his car crashed into a van (*Oregonian*, November 22 and 23).

Taser International (TI), the company which manufactures the electric shock weapons used by Portland Police, issued a memo in October suggesting that officers no longer target people in the chest. Instead, they suggest aiming for the back or legs. Law Enforcement Warnings on the TI website say "avoiding chest shots with ECDs [Electronic Control Devices] avoids the controversy about whether ECDs do or do not affect the human heart."

In light of the advisement, Canadian Mounties were instructed to aim their Tasers away from the chest area (*Portland Mercury* blog, October 16).

On November 11, the *Oregonian* reported that Sutherlin Officer Jay Huskey's use of a Taser on Erica Price was found to be justified. The woman was sent to a Portland hospital with "serious head injuries" after the event (KPIC-TV, November 4).

A Roseburg newspaper quotes Price's 19-year-old daughter saying that the Taser was unnecessary. She claims her mother was intoxicated, and that at 4'11" tall and 125 pounds, she could have been restrained differently by Officer Huskey.

Huskey was reporting to a call for medical help after Price had fallen and was brought to the daughter's apartment. With Price bleeding from her earlier fall, Price's daughter claims Huskey said he did not want to get blood on himself (*Roseburg News-Review* online, November 1).

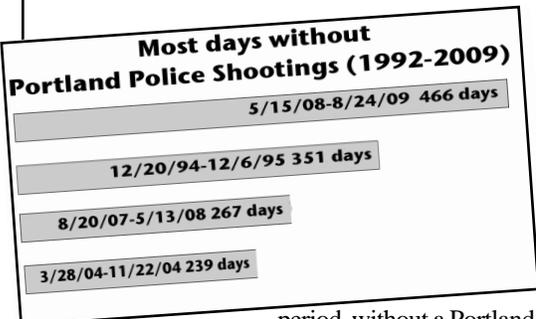
New Sheriff Dealing with Scandals

On November 5, Multnomah County swore in a new sheriff, 20-year veteran Dan Staton, replacing Bob Skipper. Skipper failed his certification test twice, even after receiving special exemption from the physical requirements (PPR #48).

Skipper was appointed to replace Bernie Guisto, who resigned due to numerous scandals (PPR #45). After winning election in November 2008, Skipper was unable to become certified within a year. Staton said he will run for election in 2010.

Former Sheriff Skipper investigated claims that Chief Deputy Tom Moore was improperly certified, but found nothing wrong. An investigation by the District Attorney found Moore was improperly certified. Four days after his appointment, Staton contacted the Department of Public Safety Standards and Training, which oversees certification of police, to request they speed up their separate investigation. The training checklist for Moore, which typically takes a year to complete, was completed over the course of four days. Staton pledged the full cooperation of his staff (*Oregonian*, November 9).

On December 15, a jury awarded \$500 to Michael Evans, a county jail inmate, saying Deputy Richard Hathaway used excessive force when he punched Evans in the head in 2006 (*Portland Mercury*, December 17).



Top deputy broke certification rule

No criminal charges | Chief Deputy Tim Moore said he discussed but didn't demonstrate all training steps

BY NICOLE HANNAH-JONES
 As Multnomah County's sheriff stepped down Thursday after failing to get his law enforcement certification, the agency was dealing with the results of a criminal investigation of its

Chief Deputy Tim Moore has been at the center of a month-long investigation into complaints that in 2006 he failed a training manual required for his police certification.

The investigation by the county district attorney's office found no evidence of official misconduct and no basis for criminal charges, but it did find that Moore violated the state's certification requirements.

Moore, deputy director of the state Department of Public Safety Standards and Training,

Moore read a y that he was "graciously" but declin



Oregonian, November 6

CHIEF PRESENTS RACIAL PROFILING PLAN TO COUNCIL

Cops Forced to Hand Out Business Cards

While the Portland Police Bureau vigorously defends two officers who manhandled and “beanbag” shot a 12-year-old African American girl whose crime was riding public transportation (see Chasse article, p. 1), efforts to improve community-police relations continue in hopes of eliminating racial profiling in Portland. The biggest step forward in recent months was the September 2 presentation of Chief Sizer’s Racial Profiling Plan to City Council. The bad news is, Sizer had not changed a single word of the plan despite public forums held in April; the good news is, City Council forced her to immediately implement the handing out of business cards at nearly all police stops.

The plan still has no outline for how to hold officers accountable if they are guilty of profiling (PPR #47). Commissioner Amanda Fritz requested a tally of how many officers have findings sustained against them for profiling. This will be a very small number, as the only case we know of in the last five years that was sustained was in 2007.

While Chief Sizer vehemently resisted implementing the business card plan—her idea was to wait until hand-held ticketing devices were available in 2011 so officers could print their cards on the bottoms of the tickets—Council directed her to change the Identification directive in two weeks’ time. At that, the Police proposed to only hand out cards at stops ending with tickets or warnings. Council wanted cards handed out at every stop, regardless of the outcome.

Although some mocked the idea, this is something Portland Copwatch has requested of every police chief we’ve met with since 1993, and we believe it will help defuse tensions not just around race, but for everyone. As summed up by *Oregonian* columnist Anna Griffin (September 5): “Handing over business cards... says: ‘Call my boss if you think I’m treating you unfairly’; ‘I’m not afraid to be held accountable for my work’; and most important, it says ‘I work for you.’”

Detective Peter Simpson, editor of the Portland Police Association (PPA) newsletter, the *Rap Sheet*, claims that more people are complaining about the cards than appreciating them. In the November issue, he refers to the policy as a “comedy,” adding that people give officers strange looks and ask, “Why would I want your card?” Some even say the cards are “a waste of paper,” and Simpson felt it was hilarious that a “transient” refused a cop’s card, saying “No thanks, I hardly have enough toilet paper.”

As is typical of the Bureau, the rewritten directive (#312.50) includes enough loopholes for officers to avoid ever complying with it. There are exceptions: when handing out business cards “might impair safety or compromise an investigation,” or when they decide that “the request is clearly an attempt to harass, delay or manipulate the contact.” Sizer said the exceptions were made due to officer concerns that witnesses might run up to them demanding a card while they’re dealing with a suspect (insert “Animal House” cough here) (*Oregonian*, September 21).

They also ignored community concerns, including the terms “customer service” and “customer relations” despite a member of the Human Rights Commission’s Community and Police Relations Committee (CPRC) objecting to police stop subjects being referred to as “customers.” And, as icing on the cake, they removed the sentence that directs officers to tell civilians their DPSST number if they are asked for a “badge number” (Portland Police don’t have badge numbers). It took years to get them to include that provision, now it is gone at the stroke of a pen.

Again after Council pushed her, Chief Sizer agreed to take another look at the training videos that feature no African Americans as cops or as civilians. Sizer agreed to ask for help from JoAnn Bowman of Oregon Action, who co-chaired the Racial Profiling Committee (2007-2008) and had asked for the plan to come to Council (*Mercury*, September 10).

Meanwhile, the CPRC continues to meet and find ways for officers and civilians to share one another’s point of view. Word is that former PPA President Robert King spoke highly of the “living room dialogues” which have brought together mostly Latino community members and a small group of officers to break bread and barriers.

Officer Greg Pashley also applauded the efforts in the September *Rap Sheet*: He noted that when you sit down and eat food, “you are bound to learn a thing or two,” adding that knowing people can “motivate you to make a difference in people’s lives.” However, he also made it clear that the residents expressed their concern about crime in the Cully neighborhood, offering assistance with “addressing chronic offenders and high crime locations.” It sounds as though there was no information exchanged about how to hold officers accountable for acts of misconduct.

At the December CPRC meeting, Chief Sizer promised a community discussion about use of force in the aftermath of the beanbag incident.

In national news, the Associated Press (AP) reported that over a million



Chief Sizer got defensive when Council ordered her to start handing out business cards right away rather than in 2011.

PUBLIC DEFENDER SAYS MAN STOPPED FOR “BICYCLING WHILE BLACK”

African American Portlander Robert James, 26, was bicycling in June when Officer Cody Berne (#45662) pulled him over, claiming James had rolled through a stop sign, then acted nervous and rode slowly. Berne patted down James and allegedly found drugs, then discovered that James had previously been arrested for armed robbery. James ran, Berne followed. When he caught up, the drugs were gone. James was arrested for blowing the stop sign and eluding police. Public defender Chris O’Connor, in James’ defense, said he was stopped for “bicycling while black.” James felt he was being profiled, and consented because he feared refusing the officer’s request. On the stand, Berne said most gang members he deals with are black: “I almost think it’d be easier if everyone I arrested was white because then we couldn’t have these types of arguments.” The judge decided there was no reasonable suspicion, but upheld the pat-down as legal since James consented. A jury convicted him of interfering with a police officer for not stopping when Berne told him to. O’Connor is appealing (*Portland Mercury*, September 17).



Biking While Black

people are stopped and frisked by police each year. In major cities, the majority of those stopped are black and Latino men. “Many are frisked, and nearly all are innocent of any crimes.” Police say they are looking for signs such as whether someone is on the lookout, drug dealing, or has burglary tools; they claim the amount of contraband they find prevents more serious crime. University of Pittsburgh law professor David Harris noted that “few searches yield weapons or drugs... and the more people are searched, the more innocent people are hassled. The hit rate goes down because you’re being less selective about how you’re doing this” (AP, October 8). The “hit rate” is how often contraband is found during searches; in Portland, contraband is found 20% less frequently on people of color than on whites.

Contact Oregon Action at 503-282-6588, www.oregonaction.org or the Office of Human Relations at 503-823-4428, www.portlandonline.com/humanrelations

NAZI-LOVING COP BACK IN HEADLINES

Über-creepy Portland Police Captain Mark Kruger’s high rank in Central Precinct drew his former friend, Bob Seaver, to file formal complaints about Kruger’s fascination with dressing up as Nazi soldiers (PPR #32). Kruger admitted to *Willamette Week* that he nailed a memorial for WWII German soldiers to a tree in Rocky Butte park in NE Portland, and got married in a town Hitler used for his headquarters—but it was just for the site’s “natural beauty” (*WWeek*, October 14).

THE ICE MAN WEEPETH

PROFILING UP NEXT: A NEW FRONTIER OF RACISM



Sixth Cop in Three Years Leaves Force for Sexual Misconduct; Previous Pervocop Costs City \$27,500



A sixth Portland officer in the short span of three years has left the Bureau and turned in his badge.* The only thing that makes the case of Officer Rodney Murdock a minority among this group is that so far, he hasn't been charged with any crimes, unlike his predecessors Joseph Wild (PPR #48), Jason Faulk (PPR #43), Matthew Kohnke (also PPR #43), and John Wood (PPR #40), but like David Howe (PPR #43), who was never prosecuted. Murdock, who had been under investigation for nearly two years, and on paid leave for one year (at \$71,656 a year!), resigned on September 30, two weeks after officers raided his Hillsboro home. The details of his misconduct have not been revealed, but the press says they revolve around "inappropriate contact with prostitutes and other women while on duty" (Oregonian, September 24 and October 3).

Coincidentally, days after Murdock's resignation, City Council voted on an out-of-court settlement of \$27,500 for the "emotionally challenged" woman with whom Faulk had sex while on duty in 2007. Portland Copwatch (PCW) took the opportunity to testify to Council. For one, we felt that the amount seemed small for what amounted to an on-duty rape; however, we understand that the woman's lawyer didn't want to have to put her through a trial. This prompted us to follow up on the June letter we wrote to Council asking them to give gender bias training to Portland Police.

Commissioner Randy Leonard, who had one month earlier lectured African American activist JoAnn Bowman about a comment she made regarding racial profiling, launched into a tirade against PCW member Dan Handelman. Leonard stated that he regretted defending Handelman in private to Chief Sizer in the past because, he said, the comment about gender bias insulted all the police. Handelman replied that since the Bureau was teaching officers to deal with people in mental crisis with the Crisis Intervention Team training, and addressing profiling issues with the Racial Profiling Plan and cultural competency training, that maybe the officers could benefit from gender training as well. Commissioner Dan Saltzman, who oversees the Police Bureau, sat quietly, though Handelman also mentioned Saltzman had told PCW that his solution is to screen new officers when they are interviewed. How that helps the 900+ officers already on the force is unclear. It was a disappointing stance from the Commissioner who also heads up the City's Children's Investment Fund. But then, Saltzman also told a room that was packed with African American citizens complaining of racial profiling that profiling would probably not be ended in his lifetime.

According to Murdock's attorney, the officer agreed to be decertified because he had already found "other employment"; we hope that does not mean he has been hired as a private security guard (Oregonian, October 3). While not all security guards need DPSST certification, at least those with guns do.

For information about combating sexual abuse, contact the Portland Women's Crisis Line at 503-235-5333
*PCW apologizes for forgetting Officer Howe in its earlier comments, in which we only named five officers.

Here's a recap on the 6 pervocops:

- November, 2006: Officer John Wood pleaded guilty to official misconduct, was placed on probation, and lost his certification for asking women to show him their underwear and/or tattoos during traffic stops.
- June, 2007: Officer David Howe, arrested in November 2006 in an undercover prostitution sting, resigned and gave up his police certification, but wasn't prosecuted because the DA couldn't interview Howe when he was on paid leave.
- October, 2007: Officer Matthew Kohnke pleaded no contest to official misconduct, resigned and gave up certification for, among other things, sexually violating a woman in a camp for homeless people.
- January, 2008: Officer Jason Faulk pleaded guilty to official misconduct, was placed on probation, resigned, and gave up his certification for having on-duty sex with an "emotionally challenged" woman.
- August, 2009: Officer Joseph Wild resigned two months after pleading not guilty to telephonic harassment and official misconduct charges for calling women and claiming he had sex with them, or threatening to rape them.
- October, 2009: Officer Rodney Murdock resigned and gave up his certification for unspecified contact with prostitutes and other women while on duty.

NOT SO SECRET LIST



For years the Service Coordination Team has used a secret police list to identify drug offenders deemed eligible for treatment and housing. As reported previously (PPRs #46-48), individuals get on the list by committing certain violations, a certain number of times, in certain neighborhoods. While others who are not on this list have their crimes treated as misdemeanors, those at the top of the list are threatened with felonies unless they enter treatment.

In August, the City Council voted to pay nearly \$1 million to Multnomah County to administer part of the program. Defense attorney Chris O'Connor questioned keeping the list secret and pointed out the historic damage caused by secret lists. Three of the four Commissioners present concluded that the list should not remain secret. The dissenter was Police Commissioner Dan Saltzman (Portland Mercury, September 3). Saltzman strenuously fought making the list public, alleging that doing so would violate people's privacy. However, he never expressed concern for the violation of the constitutional rights of those swept up by this program.

At its October 21 meeting, Council voted 4-1 to make the secret list public as part of approving another \$1.2 million for the program. Saltzman cast the dissenting vote. While voting to publish the list, which he had previously denied as existing, Commissioner Randy Leonard took a swipe at those who believe the program is unconstitutional: "It's time to end this charade of allowing those who would attack this program for various reasons to hang their hat on the list" (Mercury, October 29). We applaud the list being public, but we continue to have concerns including the lack of viable statistics regarding the effectiveness of the program, its racial bias and the question of its cost effectiveness.

A feature in the November 5 Mercury revealed that the program has cost \$4.98 million over two years, and only 77 people have gone through rehabilitation. The article notes Commissioner Nick Fish's quip that he could solve 40% of the housing problem with just \$1 million.

Another shadowy program created by Leonard along with Officer Jeff Myers is the "HIT squad," the Housing Interdiction Team that takes on properties Leonard thinks need to be shut down. Using police, fire inspectors and code enforcement specialists, they have shut down at least eight properties since 2003. Like the Secret List, the HIT squad was never formally adopted by Council, and indeed was only mentioned in Council documents by name for the first time in February, 2009 (Willamette Week, November 11). ■



Chasse Case Continues Causing Controversy (continued from p. 1)

behaviors that could indicate complications from the tasing. Nothing was said about the officers' kicks to Chasse's head, which should have been considered lethal force, or the fact that his ribs were broken in 26 places.

Chasse family attorney Tom Steenson felt Sizer's release of the Internal Affairs results violated the "gag order" imposed by Judge Garr King on the parties in the civil suit. King sided with the City, which claimed that the findings did not constitute "confidential" material from the case, and that lifting the order would taint the jury pool (*Oregonian*, October 29).

Exactly a week after Sizer's announcement, MHAP's Jason Renaud testified to Council with a seven point plan to increase community confidence in the police after Chasse's death. Portland Police Association (PPA) President Scott Westerman was there, accompanied by members of the PR firm Gallatin Public Affairs. Westerman responded to Renaud: "The issue that the PPA has with Renaud's seven requests is that he is specifically focusing on the three officers. If they're going to pull those three officers from patrol, the city may as well pull all police officers from the street, because any officer on the Portland Police Bureau that was present in that situation would have likely had the same outcome" (*Mercury* Blog, Sept. 30). That statement is chilling, not comforting.

One day later, Auditor Lavonne Griffin Valade announced that through the Independent Police Review Division (IPR), she would be hiring an expert to review the closed investigation to ensure it was fair and thorough, and to examine why it took so long. Typical of the IPR, this effort is too little, too late: the IPR should have been investigating the incident from day one, especially when two witnesses filed complaints at the time. In addition, the first draft of the expert report is not due until April, 2010—a month after the civil trial was originally scheduled to take place (it has since been moved to June).

The IPR has not made any public statements about what involvement they did have, if any, in monitoring the IAD investigation, including its mandated role as a non-voting member at the UFRB hearing. More public transparency would boost the review board's credibility. After all, IPR has boasted that IAD voluntarily asks them to review complaints generated by officers against other officers, even though IPR's ordinance limits its scope to civilian complaints.

The next week, on October 8, MHAP held a news conference that featured Bob Joondeph of Disability Rights Oregon and Rev. LeRoy Haynes of the Albina Ministerial Alliance. Rev. Haynes said "Chasse cries out today from the grave for justice." The groups called for the officers to resign.

The MHAP demands resulted in an offer from Police Commissioner Saltzman to meet with mental health advocates in private, along with Chief Sizer, but the advocates refused unless the meeting would be public (*Portland Mercury*, October 15). Saltzman's ability to lead the Bureau became the subject of public discussion. *Oregonian* columnist Anna Griffin suggested that Mayor Adams should take over the Bureau, which has been led by Mayors (rather than other Commissioners) with few exceptions including the early 1980s.

At a hearing about the "Sidewalk Management Plan" on October 21, Commissioner Randy Leonard wrongly suggested that Chasse was homeless and had urinated on the street, but nonetheless righteously proclaimed his death was "completely unjustifiable and inexcusable." The next day, he told the press he thinks the city should pay the Chasse family for the incident: "We shouldn't have a judge tell us to do it." (*Oregonian*, October 23).

Not long after, Saltzman announced that he was recommending doubling Nice's punishment from 40 hours to 80 hours without pay, adding that Humphreys also should receive 80 hours of suspension (*Mercury*

Blog, November 4). Because Burton wasn't working for the PPB at the time, they cannot impose discipline on him; in fact, Burton refused to be interviewed by IAD until sometime in 2008, one of the reasons the investigation took so long.

Westerman and the PPA denounced the proposed suspensions as political, repeating that the UFRB had found the use of force against Chasse within policy. Perhaps realizing that their argument in court depends on that being true, the City filed papers in the civil suit claiming Chasse died not from blunt force trauma, as the Medical Examiner stated, but from "Excited Delirium." October was the first time any doctors' group in the country recognized this as an actual syndrome. The Academy of Emergency Physicians listed a number of symptoms including that people "display incredible strength, are impervious to pain, growl like an animal, are aggressive and take off their clothing because they become superheated" (*Oregonian*, November 19). Strangely, it mostly seems to be people who wrestle with police that die of "Excited Delirium."

About the biggest twist in the case wasn't even about Chasse himself: on November 14, Officer Humphreys shot a 12-year-old African American girl with a "beanbag" gun at close range. Her crime? She had taken the MAX light rail train though Officer Aaron Dauchy (#30873) recognized her as having been excluded. Readers of the PPR know that "bean bags" are really lead buckshot in nylon sacks that can kill a person if fired from under 10 feet (PPR #12). Thus, though Westerman claims the officer was justified in shooting the girl in the leg, we would argue that shooting her nearly point-blank was lethal force. It was a relief that Saltzman and Sizer acted quickly in this case and suspended Humphreys while an investigation was conducted.

This led the PPA to go berserk, holding a news conference on the steps of the Justice Center with Westerman flanked by officers in uniform (in apparent violation of their directives), and then putting Saltzman and Sizer to a vote of no confidence in late November. Saltzman and Sizer moved Humphreys back onto desk duty—but not back on the street—and the "union" agreed not to release the results of their vote.

While public sentiment is oddly mixed about the "beanbag" shooting, the community seems to continue to be outraged about what happened to James Chasse. The *Oregonian* ran two editorials, the first on September 25 decrying that Sizer found the use of force "acceptable"—though she technically never used that word, their headline writer did—and another on November 9 calling for an overhaul of the accountability system. Significantly, the second editorial stated that "With all of the responsibility for the Police Bureau residing in one commissioner, it becomes easy for the others to dodge their own responsibilities for the general welfare of the city."

Echoing this idea, Renaud wrote an op-ed, the fourth from the MHAP or its allies in two months (after Michael Hopcroft on September 12, Michael Bailey on October 2, and Mary Wheeler on October 23). Adding four new points to the seven he laid on Council, Renaud suggested that all five commissioners be given responsibility for the Bureau. Imagine five elected officials, all charged with oversight, and all taking equal heat when the cops go out of control. Not a bad plan at all.

Info including email addresses for city officials and the officers is on the Mental Health Association of Portland website: <http://www.mentalhealthportland.org>

Long blue line walks in protest



Counter-demonstrators criticize police union. *Portland Tribune* Ministers support Police Commissioner Dan Saltzman and Police Chief Rosie Sizer. BY JIM REDDEN *The Portland Tribune*, Nov 25, 2009. Updated Nov 25, 2009. *Oregonian*, Nov. 25



The day after hundreds of Portland police marched on City Hall to criticize Chief Rosie Sizer and Police Commissioner Dan Saltzman.

Portland Copwatch supports the call for the officers to resign, particularly since the City appears unwilling to fire them. It is not unheard of: Officer Jason Sery resigned not long after the controversial shooting of motorist James Jahar Perez in 2004 (PPR #32). On November 21, the *Oregonian* reported that Officer Humphreys applied for stress leave; perhaps the first step toward his resignation?

In addition to beating Chasse and then bragging about how hard he went down when tackled (PPR #46), Humphreys cost the City \$133,000 for dragging Chaz Miller out of a truck and beating him with a baton 20 times in 2003 (PPR #40), and is facing a lawsuit for assaulting Lisa Ann Coppock, a woman of diminished mental capacity in 2008 (PPR #47).

According to the Willamette Week (9/16), the City of Portland had spent \$110,000 defending itself in the Chasse case as of mid-September. If the City has to pay out more than \$1 million, their self-insurance gives way to a policy from Charris, formerly known as ALG. For other info on Chasse see "Rapping Back" (back page).



City Considers Sit Lie 4.0 (continued from p. 1)

made for years: there are laws and ordinances to deal with unacceptable behaviors occurring on the streets and sidewalks, and it has never been necessary to target a whole group of people in order to deal with these particular behaviors. Mayor Adams indicated his intention to base the SMP on the Americans With Disabilities Act, despite there being no known incident of anyone with disabilities being unable to travel down a Portland sidewalk due to people sitting or lying there. It was also stated at the meeting that the issue of sidewalk cafes and A-Boards would be addressed in the Plan.

A subsequent meeting for members of the Portland Business Alliance was kept secret until less than 24 hours in advance. Attendees were required to be on a guest list, and private security guards stood at the door to keep out the uninvited. Tellingly, the meeting was held in a conference room that is located underground. Comments made were stunning in their disregard for civil, human and legal rights for all in our community. One person suggested making all of downtown Portland into a park so anyone considered undesirable would be subject to park exclusion, and another suggested privatizing the sidewalks. Business leaders also suggested that the state Constitution be changed to limit free expression (*Mercury*, September 17).

Portland Copwatch (PCW) sent an open letter to the Mayor and the Commissioners regarding the issues discussed at the two meetings. There was no response.

City Council on October 21 discussed the SMP and took public testimony. PCW sent a follow up memo stating that their proposed enforcement of existing laws "including littering, harassment, disorderly conduct and drug dealing," must be applied equitably regardless of a person's dress, skin color, perceived economic status or other appearance. We asked that the City consider charging most of these crimes as violations rather than creating criminal records for people cited under the Plan. One of the Plan's proposals is to create training programs for private security guards under contract with the City. We stressed that accountability and oversight of these guards must be a high priority, noting some of the brutality experienced by homeless people at the hands of rent-a-cops, many of whom carry guns. Council also proposed the creation of a "telephone and internet-based option for the public to report concerns regarding sidewalks and the public realm in Downtown Portland." When we pointed out the inequity of this, Commissioner Amanda Fritz replied that her "friends living outside" could utilize the Central Library and that staff members at the Office of Neighborhood Involvement, the Office of Human Relations and her office would be available for "in-person assistance during business hours." How quickly those calls or e-mails could be made by a homeless person reporting abuse contrasted with a business person calling on his cell phone hasn't been, and probably won't, be determined.



Members of PCW were appalled when Central Precinct Commander Mike Reese testified that as part of the Plan, plainclothes officers will go on the streets to "spot" various behaviors, then call for uniformed officers to make arrests or issue citations. This spying smacks of a police state and we have no doubt who will be the targets.

Sisters of the Road Cafe shut down for three weeks at the end of July because "police received complaints from neighbors about drug dealing, aggressive dogs, and people not being able to walk through on the sidewalks" (Sisters email, August 28). Their solution: Chalk lines showing where it is ok to sit, where to line up for a meal, and a clear through "walkspace."

Commissioner Fritz invited PCW to serve on the SMP oversight committee, consisting of a mix of 25 members. We subsequently sent her a memo declining the invitation. We pointed out that there should be no more efforts to create programs designed to hide poverty from the public eye which, ultimately, are programs that criminalize being poor and homeless. While we will not be on the oversight committee, we will attend the public meetings and will be alert for any proposals which appear to denigrate or harm homeless people or to violate civil rights.

Homeless Camp Outside City Hall in Protest

Starting on September 28, a protest regarding Portland's anti-camping ordinance took place outside Portland City Hall. Around two dozen campers gathered around the front entrance for a peaceful night time protest. Usually, the protesters numbered in the range of one to two dozen. They camped to bring awareness to the unsolved shelter problems for those without a home or any shelter. They were calling for a temporary suspension of the anti-camping ordinance and the creation of more shelter beds this winter.



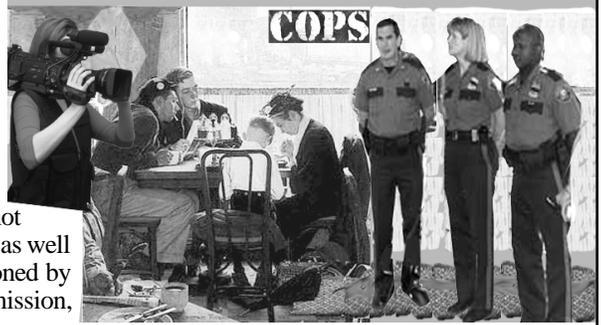
The group protesting had Art Rios speaking for the right to have a safe place to sleep at night. Rios, a homeless activist, said: "Housing is a right. Employment is a right. May no one human being go without." He added that the campaign is a call to give "respect and dignity to all" (*Oregonian*, October 13). Folks like Mike O'Callaghan told Council that the current laws "prohibit any human from sleeping" and that "it makes us criminal" (*Oregonian*, October 22). Police Commander Mike Reese's comment regarding homeless camps in the city is, "these camps are not where anyone would want to live, they're degrading." Cmdr. Reese also is quoted in the *Oregonian* saying, "tents can conceal drug use and illegal activity" (October 26). The police consider tents problematic. Yet Chief Sizer claims "it's rare for police to roust the homeless without a specific law enforcement complaint."

Year round, 600 shelter beds are available, with another 422 in the winter, and a surge capacity of 300 more in freezing weather. That is not enough: hundreds of less fortunate will be left with nowhere to go. In spite of a reported 40% decrease in those sleeping outside in 2007, the economic downturn has resulted in many new homeless folks. There are an estimated 4000 homeless people in Multnomah County, including those staying "with friends." On any night 1600 sleep outside (*Oregonian*, October 22 and 26). The protesters complain that some were arrested for sleeping outside under the bridges trying to get shelter from temperatures in the 30s.

On October 13 (after two weeks) the protesters who stayed on the sidewalk around City Hall during the daytime, making their plight more visible, were asked to leave by Mayor Sam Adams. They had been protesting/camping only at night time and offered to be packed up at 7:30 am. The night time protest was to show that all they needed was a safe place to sleep. All the protesters involved in the vigil signed an agreement not to use alcohol or drugs, to obey the City laws, and not to engage in fighting or disrespectful activity. After the Mayor asked them to leave, the protesters held a press conference pleading for more shelters that allow pets and couples, and for the City to suspend the anti-camping ordinance. The protest ended October 14. ■

COPS AND "COPS" RAID ST FRANCIS DINING HALL

No doubt seeing the chance for their fifteen minutes of fame, on September 10, four cops from North Precinct, with the "COPS" TV crew in tow, raided the dining hall at St. Francis of Assisi Catholic Church. The reason for this incursion into a meal provided for poor and homeless people was that the police were looking for an alleged homicide suspect. Invoking "Cool Hand Luke," Central Precinct Commander Mike Reese stated, "It was a failure to communicate." (*Portland Mercury*, October 8). Pastoral Administrator Valerie Chapman, indicated she had not been notified regarding this action and that it "had violated the church sanctuary" as well as the private property on which the church and dining hall stand. When questioned by Chapman, the officers indicated "the woman at the door" had given them permission, although there was no woman and no staff members had given the ok to tape.



After years of negotiaion (PPRs #15 & 28), an unwritten agreement between Chapman and the police required notification if officers were trying to contact or arrest a client at the dining hall. Assistant Police Chief Brian Martinek later stated, "The decision to bring 'COPS' in wasn't the best, in hindsight." The Bureau later clarified their agreement with St. Francis. The PPB also decided that the video footage would not be shown, thus depriving the viewing public from seeing Portland's finest facing down hungry people who had just finished saying grace for a warm meal. A few days after the incident, the man in question was at the dining hall and Chapman alerted police, who came and spoke with him outside. Despite the urgency with which they sought him, he was not arrested (*Oregonian*, October 2). ■

City ordered to pay in police confrontation



LAWSUITS: City Pays Over \$250,000 in September/October 2009 (continued from p. 1)

who they mistook for a jaywalker. In the parking lot case, repeat lawsuit recipient Leo Besner (#27981) has earned the nickname of the "million dollar man."

The men, Harold Hammick, Ri'Chard Booth and Alex Clay, were in a parking garage downtown at about 2:45 AM in March, 2007. The officers were supposedly looking for African American men who had been involved in a street altercation when they came upon the three in their car. Because Hammick and Booth had waited 20 minutes while Clay picked up a pizza, the officers thought they were suspicious. When Besner approached the car, Hammick informed him, as is procedure, that he had a concealed weapons permit. Besner flipped out, screaming "he's carrying!", ripping open the door and slicing through the seat belt, supposedly so Hammick wouldn't pull his gun while undoing the buckle.

The cops dragged all three out of the car, allegedly punching Hammick in the crotch two times, questioning their "manhood," and pointing guns at their heads. Clay said Besner seemed disappointed that the men didn't fight back. They were eventually released without charges (*Oregonian*, September 24). Fortunately for the men, two PSU students in a nearby car ducked down to observe the action without being seen by the officers. Their testimony led the jury to side with the men and order the city to pay \$175,000. The jury considered that this might be racial profiling. The foreperson said that "Race was discussed only briefly during deliberations as jurors wondered whether white men would have been treated the same" (*Oregonian*, September 29).

Besner roughed up the three men with Sgt. Chris Davis (#32024), who was involved in the fatal shooting of José Santos Victor Mejía Poot in a psychiatric hospital in 2001 (PPR #24), and Brian Hubbard (#32024), who shot and killed Jose Padilla with an assault rifle while Padilla was holding a woman at knifepoint in the downtown bus station in 2004 (PPR #32). Besner's history includes the shooting of Raymond Gwerder in the back while Gwerder was talking to hostage negotiators in 2005 (PPR #37), roughing up teenager Maria-Janeth Rodriguez-Sanchez at a Tri-Met stop in 2003 (PPR #36), and brutalizing anti-war protestor Bill Ellis, also in 2003 (PPRs #32-35). The settlement for the Gwerder family was \$500,000; Ellis's share of the massive settlement regarding two protests was \$299,772.72, and Rodriguez-Sanchez was awarded \$177,161.41. Technically, that's only \$976,934.13, but hey, who's counting.

The videographer, Frank Waterhouse, was in an auto wrecking yard in May, 2006 when officers came on the property chasing an alleged jaywalker they say ran from them. Waterhouse was taping the police action when Officer Jennifer Musser (#40710) accused him of being the jaywalker and ordered him to put the camcorder down. Without warning, Officer Ronald Frashour (#40927) shot his Taser at the same time Officer Joshua Bocchino (#41047) shot

Waterhouse with "beanbags" (*Oregonian*, September 22). The officers claimed they thought the camcorder could be used as a weapon (also see IPR article, p. 2). Criminal charges of disorderly conduct and trespass were dropped, and attorney Ben Haile filed suit (PPR #43).

One of the most interesting aspects of this case: Chief Rosie Sizer took the stand and criticized the officers' behavior. Despite Use of Force Review Board findings that the officers were within policy, Sizer testified at the civil trial that "the officers had ample

time to coordinate their efforts so Waterhouse wasn't hit with two weapons at once, and that they had plenty of time to give warning." In addition, because he was not "actively resisting," officers should not have used a "beanbag" round (*Portland Mercury*, October 1).

The jury ruling of \$55,000 is nearly twice the \$30,000 Waterhouse was asking for. What makes these two cases unusual in recent history is that most of the large outlays by the City between 1998 and the present have been out-of-court settlements; these two incidents were decided by juries.

Beth Creighton, the lawyer representing the woman with whom pervocop Jason Faulk had sex while on duty, says her client has diminished cognitive capacity. To avoid the pain of a trial, they accepted the \$27,500 settlement (also see p. 6).

In our last issue, we published a graph showing the average yearly payout for police misconduct from 1994 to 2009 has been \$454,377 and that the City was on track to pay out about \$330,000 in 2009. These cases bring that total to \$479,150, or slightly above the average. It brings the 17-year total of 1993-2009 to over \$7.2 million, with over \$3.8 million just between 2005 and 2009 (5 years).

We are working on revising these figures, as a public records request for the top settlements and jury awards revealed another \$572,000 we didn't know about from seven cases, \$119,000 from 2005-2009. The Risk Management document is missing at least 10 of our top 25 amounts (see our website/PPR #47 for info), and an *Oregonian* article on December 11 revealed another \$93,000... so it's likely even more is missing. As we've noted many times before, when the City pays out money, the officers do not necessarily end up being disciplined. Particularly with repeat offenders like Besner (and Christopher Humphreys—see p. 1), the City should consider making the officers pay with money or with their jobs. ■

Not Policing Themselves

Lawsuits: The Only Real Discipline for Portland Cops?

POLICE CHIEF ROSIE SIZER really released the findings of an internal review. "The suspension could be 10 minutes long," says Jason Faulk of the Mental Health Association of Portland. "The question is: last week, shelling barely any wrongdoing by her officers." The Portland Police Bureau's Internal Use of Force Review Board found that Officer Christopher Humphreys and Sergeant Kyle New did not violate any bureau policies by chasing Chase, locking him in the ground, and beating him on the sidewalk, in front of witnesses, until he was unconscious. Perhaps most controversial of all, the chief released a statement saying: "There is no evidence in any report or witness statement that any member of the Use of Force Review Board is credible that any officer at the scene knew or should have known that Mr. Chase had suffered a serious physical injury." (Court documents are available through a public records request from the Oregonian.) Officers Corey State Medical Examiner Karen Givens found 48 separate fractures on Chase's body, including:

Portland Mercury, October 1



RAPPING BACK

Portland Copwatch analyzes the police 'union' newsletter
—continued—

RAP SHEET'S CHASSE COVERAGE (continued from back page)

three officers involved in Chasse's death "have been attacked and slandered in the media in... countless dozens" of articles (*Rap Sheet* November 2009).

Insisting management imposes too much scrutiny, Westerman claims that officers no longer write reports about suspects' behavior, only about their own actions.

PPA Vice President and *Rap Sheet* editor Peter Simpson chimes in as well, claiming that the Use of Force Board's finding that officers were within policy is the final word (*Rap Sheet*, October 2009). He expresses disappointment that Sgt. Nice is being punished for not demanding an ambulance when "on scene medical personnel reportedly stated that Chasse didn't need to go to the hospital." If the police are the only ones "reporting" what the EMT said, that proves nothing.

Simpson adds that Sizer apologized to Nice for not telling him about the finding directly, but the damage was done. PPA members expressed everything from "disappointment to rage," grumbling that Nice has been "hung out to dry."

Simpson praises Sizer for addressing the timeliness issue in a case that took three years: "Speed cannot trump thoroughness and fairness." This is odd, since Simpson also says that the long process has made the officers' lives a "living hell." Whenever I see the video of James Chasse being carried like a sack of potatoes through the jail booking center, I sense that is what a "living hell" feels like; the officers are getting off easy.

Recovering Alcoholic Cop Seeks Help

Sgt Larry Graham of the Police Alcohol Recovery Team (PART) wrote a piece in the October *Rap Sheet* calling for more people to get involved in guidance for Portland officers struggling with alcoholism. Only three people are listed on the team (Graham, Officer Rob Hawkins of Trimet and Det. Lori Drew) and two of them are about to retire. Assuring the officers they don't have to have their names published, Graham repeats a fact we've known for a long time but is refreshing in its honesty: more officers die from suicide and alcohol than die in the line of duty.

Unfortunately, Graham still has a bit of a rose-colored view on what police do: "We step into other people's chaos and bring calm." Oh, really—were the beating death of James Chasse, the shooting of José Mejía Poot in a mental hospital, or the attacks on protestors on May Day 2000 or the Iraq war protests in 2003 means of bringing calm? Graham also says that the officers' role is to provide "wisdom, solutions and resources." Bring it on!

Strange and scary tidbits #1: Killing Animals for Fun

In a piece reminiscing about being scared by a house cat during a burglary call, retired Det. Dave Schlegel writes: "In the old days, cops on the night shift would sometimes shoot rats and opossums with guns and pepper spray for target practice" (November *Rap Sheet*).

Everything You Wanted to Know About OOPS But Were Afraid to Ask

Lt. Pat Walsh describes the functions of the Office of

Accountability and Professional Standards (OAPS) in the September *Rap Sheet*. This is the office that Independent Police Review Division Director Leslie Stevens jumped to inside the Bureau after heat started coming down on the IPR in early 2008 (*PPR* #44). Walsh says the OAPS (originally, just Office of Professional Standards, or OOPS) was created to assess "how and why we do what we do."

Walsh says that his research shows that discipline of past actions is not as effective as changing future behavior. While that may be, so long as the police are enforcing laws against the citizenry using violence, it is clear that the "don't discipline" philosophy does not extend outside the Bureau. Furthermore, when the public hears about officers committing egregious acts of misconduct far worse than what any citizen might do in the course

of their jobs and receiving nothing but training, it does not build confidence in accountability. Walsh says officers should be "pleasantly surprised" by his findings.

Perhaps as a joke, Walsh tells the PPA members reading the *Rap Sheet* that they're probably familiar with the Collision Review Board, which handles claims around officer-involved traffic accidents, having been there "a time or two... or three." Walsh also "humorously" suggests that the OAPS Program Specialist's job is handling "obscure or crazy public records requests from the media or lawyers thinking about suing you."

To reassure officers that being in the office that oversees Internal Affairs and Tort Claims (lawsuits) does not mean he has had a drink of "the Kool Aid," he suggests that they "ask Tony Passadore and Mike Geiger about their experiences."

We can only speculate what this means;

Passadore shot and wounded a suspect after a car chase in 2006 (*PPR* #40), and Geiger was in charge of investigating pervo-cops including John Wood (also *PPR* #40).

More Good Advice About the Internet

In our last issue, we reprinted some information the PPA offered up to officers cautioning them about the use of social networking sites. In the October *Rap Sheet*, more tips were offered including this salient simile for social sites: "Any tool—such as a firearm or a Taser—can be abused." The author, Dr. Richard Weinblatt at Policeone.com, warns officers not to ignore department policies or common sense, thereby sacrificing their careers "for a few moments of posting euphoria." Among his ten tips are: Avoid gun glorification, aiming a gun at the camera, or being too "warrior oriented"; don't show yourself partying; and avoid comments that will look bad in court. For example, "comments that imply the officer enjoys using force on people, especially certain groups of people, are being seized on by criminal defense and civil plaintiffs attorneys." Ya think?

Strange and Scary Tidbit #2: Cops Want to Hide Their Whereabouts

The *Rap Sheet* used to carry ads and articles praising the use of "Lojack," equipment civilians could use to allow law enforcement to locate their cars. So, it is interesting that an article in October's issue shows that GPS technology embedded in handheld devices being given to Baltimore officers "concerns police union leaders, who suspect that officers might face undue scrutiny." The AP article quotes FOP president Detective Robert F Cherry Jr.: "Let's use it... to enhance their job performance—not to track where they're going to be so you can scold them."

More Support for Killer Cops, This One in Arizona

Everybody's favorite think tank for police apologists, the Force Science Research Center (FSRC), wrote a lengthy piece about an Arizona officer who shot and killed a woman driving while her young son was in the car. The article, reprinted in the September *Rap Sheet*, (conclusion on p. 11)



BRUISIN' FOR CHARITY?

Ads in the September through November *Rap Sheets* about a fundraiser for the PPA's "Cover Foundation," which provides money to officers in need due to injuries and other issues, proudly announce the "Black and Blue night out." In our last issue, we showed an ad from the May *Rap Sheet* for a "Black and Blue Bowl", a football tournament for another police charity. Even if the titles of these events are references to police uniforms, the idea of using a phrase that is normally associated with someone receiving injuries seems as if someone needs a better Public Relations department.



TRAPPING

-conclusion-

labels the woman a "prescription drug abuser," condemning the press for sympathizing with an "attractive young housewife with her infant in the back seat [who] had tried to pass a forged prescription for painkillers."

The officer, Dan Lovelace of Chandler, AZ, was fired and put on trial for murder by a "zealous prosecutor." "Spurned like a leper," Lovelace couldn't get work even after he was acquitted for the 2002 shooting, but in July, the Sheriff of nearby Pinal County, AZ hired him.

The city of Chandler paid \$1.94 million to the family despite pleas from FSRC's Dr. Bill Lewinsky that "It should have been cleared as a righteous shooting." News articles about the incident state that Lovelace felt the woman was going to run him over with her car, yet she was shot in the back.

FSRC uses the case to show how Chandler authorities allegedly framed the facts of the case to fit their theory. Not unlike cops' criticism of the Chasse case in Portland, Lewinsky declared the case "a classic example of...hanging an officer out to dry in a politically charged atmosphere fueled by media hysteria."

Strange and Scary Tidbit #3: Our Media is Government Controlled!

Lt. Pat Walsh, reporting on a Central Precinct officer who's now on active duty in Iraq, complained that "You will rarely see or read good stories about our soldiers' quiet sacrifice anywhere in the government-run media" (November Rap Sheet). Much like Pravda in the Soviet Union and press under dictatorships, it's clear that the media in the US must be run by the government, which is why the Washington Post exposed the Watergate scandal and the New York Times revealed many of the Bush administration's violations of the law.

The Portland Police Association does not set policy. However, some PPA leadership and officers express negative attitudes toward citizens and civilian oversight in their newspaper, so these ideas may spread throughout Portland's rank-and-file.

The Rap Sheet is available from the Portland Police Association, 1313 NW 19th, Portland, OR 97209. The PPA's website is <www.ppagvigil.org>.

If police want to search you, they may pat you down to check for weapons. Make it clear you do not consent to any further search. If they say they have a search warrant, ask to see it. If they are searching your home or your car with "probable cause," make it clear you do not consent to a search.

If you are arrested, you do not have to answer any questions, other than identifying yourself. Don't offer excuses or explanations. Anything you say can be used against you. Just say, "I want to talk to a lawyer." If you don't have a lawyer, ask the police how to contact one.

If you are Copwatching, be sure to let officers know you don't intend to interfere with the arrest. This means staying ten feet or more away from the action and not trying to distract the officers or the arrestee's attention.

If you are the victim of police misconduct, be sure to get the names of all officers involved and supervisors names if possible. Get names and numbers of any witnesses to the action.

If you are the victim of police misuse of force, document injuries right away. You may wish to pursue any number of routes, from filing a complaint with the Independent Police Review Division (IPR) to pursuing a lawsuit.

LEGAL BRIEFS: Driving Under the Influence of Police Warnings

Constitutionality of Oregon's Implied Consent Law Thrown into Doubt

In a surprise October 2009 ruling, the Oregon Court of Appeals questioned the constitutionality of the state's implied consent law. The Court ruled Thomas Machuca's consent to an alcohol test was coerced because he agreed to have his blood drawn after an officer informed him of the penalties for not consenting. In a 6-4 decision, the Court found the consent was not voluntary and the test should be suppressed.

Current law requires that licensed drivers consent to a breath, blood or urine test when arrested for driving under the influence of intoxicants (DUII). Refusal to consent can be used as evidence in court, and results in a one-year license suspension and \$1,000 fine. Under the law, officers are required to inform people of the consequences of refusing to consent to submitting to a blood-alcohol test (Oregonian, October 3).

In 2005, Machuca was injured in an accident in Portland. At the hospital, an officer told him he was under arrest for DUII and reckless driving. The officer testified there was a strong smell of alcohol and Machuca was aware that he had been in an accident. Machuca was informed of his rights and the state's implied consent law, including the penalties for refusing. He consented to the test.

The appellate court reversed the trial court's refusal to suppress evidence of the blood test based on

State v. Newton, a 28-year-old Oregon Supreme Court case which held that consent motivated by the "fear of adverse consequences" is "coerced" and runs afoul of 4th Amendment protections against unreasonable search or seizure.

The court noted that the officer could have obtained a warrant within an hour by phone. Therefore, there was no emergency to draw the blood.

Since the ruling, the DA and City Attorney issued new guidelines to Portland Police for DUIIs. If a suspect consents to a breathalyzer, the implied consent warning is not given. An officer can seek a warrant from a judge for a blood test "in cases toward the worse end of the spectrum." If a suspect refuses a breath test, the officer will read the implied consent warning "in a neutral manner." If the suspect agrees to the test, police are to administer it, but only if "the atmosphere is such that a reasonable person would feel free to refuse" (Willamette Week, October 7). The new guidelines are in progress and may have already been revised. ■

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Call us at (503) 236-3065 for more info; report incidents with the police or Sheriff's deputies to the Copwatch Incident Report Line at (503) 321-5120. This issue printed with soy-based ink on recycled paper!

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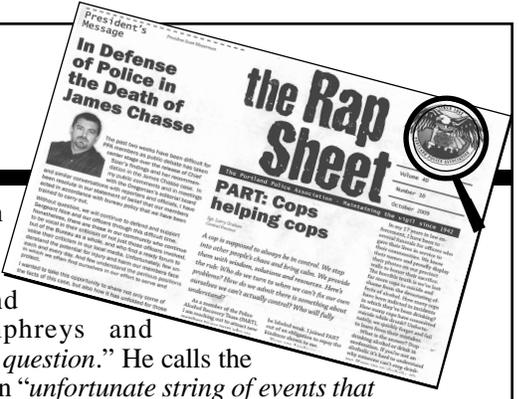
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RAPPING BACK

Portland Copwatch member Dan Handelman analyzes the Police "Union" newsletter, the "Rap Sheet" for the People's Police Report



Cops Continue to Coddle Killer Colleagues

Police "Union" on Chasse Death: Trying to Look Good Only Makes Them Look Worse

The Portland Police Association (PPA) hired a public relations firm, presumably in the lead-up to their contract negotiations, but not coincidentally at the same time the findings were released about the 2006 death of James Chasse, Jr. (see p. 1). Perhaps the public relations firm should have warned the *Rap Sheet* that the choice of headlines for PPA President Scott Westerman's October column sends the wrong message. "In defense of police in the death of James Chasse" fully shows where the "Union" is coming from, despite Westerman's repeated efforts to call Chasse's death a "tragedy," and assertion that "No one thinks [Chasse] deserved to die." So, why not use a term like "A few words about" or "reflecting on the tragic death of..."?

Westerman's public stance has been that "Our members acted in accordance with Bureau policy that we have been trained to carry out." Despite Chasse's 16 broken ribs and the multiple kicks to his

head, Westerman insists that the PPA will defend Sgt. Nice and Officers Humphreys and Burton "without question." He calls the brutal violence an "unfortunate string of events that

occurred without malice and without intent." In his view, officers are allowed to beat a man to death because they face potential injury and harm every day, putting themselves in "perilous positions" to serve and protect.

Again, Westerman deflects responsibility from the officers: "It is easy to blame the police when facts are obscured, and now the realization that there is indeed,

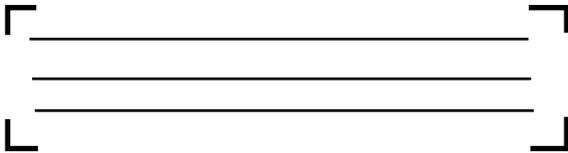
nobody to blame doesn't bring James Chasse back."

The only apology Westerman manages to squeeze out is that after talking to Chief Sizer about the proposed 40-hour suspension for Sgt. Nice, he failed to call Nice to inform him of the finding. Apparently, Sizer herself did not contact Nice either before speaking to the press.

Sizer also takes heat from Westerman for coming to the defense of Nazi-loving cop Capt. Mark Kruger after one *Willamette Week* story (see p. 5), while the (continued on p. 10)

THICK LIKE THIEVES:

Who knew that Cetnral Precinct Commander Mike Reese (L, both photos) was in a rock band called "The Usual Suspects"--with guitarist Mike Kuykendall, also known as vice president of the Portland Business Alliance (PBA/2nd from L, above--*Rap Sheet*, September 2009). Better yet, the man with the guitar is Norm Sharp, former Portland Police Lieutenant turned head of the PBA's Clean and Safe program (2nd from R). But wait, the comfy relationship grew even closer when Commissioner Randy Leonard appeared as the Suspects' guest singer at a benefit for Transition Projects (*Northwest Examiner*, November 2009, right).



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YOUR RIGHTS AND THE POLICE

a quick reference guide for civilians in Portland, OR

When you're stopped: Stay calm, keep your hands visible, be careful what you say. If you are not driving, you do not have to carry I.D. You do not have to identify yourself, but if you refuse, police may bring you in. You can't be arrested for not having I.D.

If you are driving, you must show your license, registration and proof of insurance. If you are suspected of drinking and refuse to take a breath test, your license can be suspended.