



## The League of Women Voters of Portland

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

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

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

### Introduction

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

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

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### **Police Review Board Code (3.20.140)**

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

#### **Suggested additions or changes**

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

### **Expeditious investigations (3.20.145)**

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

#### **Suggested changes**

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

### **City Auditor's Independent Police Review Division (3.21)**

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

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

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Eileen Luna-Firebaugh, author of the IPR Performance Review, recommended that specific types of cases of community concern be investigated routinely by IPR. Further, if IPR is to conduct independent investigations it should have the authority to compel officer testimony.

## **Observations and suggested changes**

### **Definitions section**

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

### **Powers and Duties of IPR**

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

### **Handling Complaints**

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

### **Subpoena power**

- Subpoena power is an important addition to the IPR’s authority.  
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## **Outstanding Issues - Policy**

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

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

### **Additional recommendations:**

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