



The League of Women Voters of Portland

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DATE: November 29, 2010

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

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

RE: **Police Oversight Stakeholder Committee Report**

The League would like to thank City Council for forming the Police Oversight Stakeholder Committee and for offering us the opportunity to serve on it. We agree with all 41 of the recommendations. This memo highlights the recommendations we believe are most important for improving the system. Those we consider to be absolutely critical are designated by asterisks (**).

We urge you to look upon acceptance of the report as another milestone in the path toward developing an oversight system that truly serves the needs of the community. Many of the proposed changes will require additions or amendments to the code. We hope work will begin on that task as soon as possible and that a representative from each commissioner's office will be involved. In light of the high degree of community interest in this issue, we urge you to make the process as transparent and inclusive as possible.

I. IPR AUTHORITY AND STRUCTURE

****B. Ensure that IPR investigations include specified more serious complaints.**

The stakeholder committee report recommends that when the Independent Police Review Division (IPR) conducts an independent investigation it should do so in serious cases such as those involving use of force, shootings, deaths in custody, and physical injury requiring hospitalization. This would expand the types of cases over which IPR has authority to conduct an independent investigation.

The League supports this recommendation, but encourages City Council to go a step further by requiring IPR to independently investigate cases of greatest importance to the community. The fact that IPR has never conducted an independent investigation, even though it has the power to do so, contributes to the lack of community confidence in the system.

At this time, the public is most concerned about the quality of investigations in police shootings. Requiring IPR investigations in these cases would address that concern. Alternatively, Council could require IPR to investigate all complaints affecting those with the rank of captain or higher (see #I G). The IPR will gain credibility in the community by using its authority to conduct independent investigations. City Council should provide direction by mandating independent investigations in certain cases.

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

The authority to compel officer testimony will enable IPR to carry out independent investigations without Internal Affairs Division presence. We urge Council to grant this authority by including it in the union contract.

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

In order to avoid even the appearance of a conflict, the Auditor should be given the authority to hire outside counsel. The City Attorney is charged with representing the interests of the city, which extends to protecting the city from exposure when police officers are involved in misconduct. The City Attorney's office cannot be expected to protect the city at the same time it advises the IPR and Citizen Review Committee (CRC) as they pursue misconduct cases. City Council should support the Auditor in her request that the Charter Commission consider this issue.

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

Whether IPR or IAD investigates complaints of police misconduct has been an ongoing issue since IPR's creation. In order to gauge community preference, a survey question should be asked during the intake process to determine the complainant's preference. The response will not affect the case handling decision, but will provide the IPR with a better sense of how it can improve its service to the public.

II. CRC AND COUNCIL OVERSIGHT AUTHORITY/STRUCTURE

****A. Change the definition of "supported by the evidence" as that term is used in Portland City Code 3.2.160 Hearing Appeals.**

The "reasonable person" standard currently in use for CRC appeals has proved problematic and confusing over the years. Eileen Luna-Firebaugh pointed out that "preponderance of the evidence" is commonly used by other oversight agencies. Some argue that CRC is an appellate body, so "reasonable person" is the appropriate standard. CRC, however, can hear new evidence at a hearing, send cases back for additional investigation, and challenge police bureau findings based on the additional information. "Preponderance of the evidence" is the appropriate standard.

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

H. Increase the size of CRC.

CRC members face a steep learning curve. Longer terms will result in more experienced and knowledgeable members.

In addition to preparing for and hearing appeals, CRC members participate in work groups that focus on policy issues, outreach, etc. The job requires a significant time commitment. Additional CRC members will help spread the workload and provide more opportunities to enhance diversity.

****I. Allow CRC to review proposed allegations prior to investigations.**

Inappropriate, missing, and poorly formulated allegations of alleged police misconduct in cases have been a recurring problem at CRC hearings. This results in general confusion and oversight of important issues that should have been addressed. By providing a brief window of time for available CRC members to review the allegations prior to an investigation to ensure that they reflect the complainant's concerns and align with Police Bureau policies some of these problems could be avoided.

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

Currently, the code does not make it clear that CRC can send a case back for reformulation of the allegations related to a police misconduct complaint, although it has been done in more than one case. Given the problems experienced in the past with poorly formulated allegations, it is necessary for CRC to have the clear authority to request that allegations be revised when needed.

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

Complainants were given the opportunity to appeal service complaints at the time IPR was created, so there is no reason to believe the ordinance prohibits service complaint appeals. Reinstating the right to appeal likely will improve public confidence in the system and help build trust. A CRC work group currently is considering the possibility of recommending a return to the practice in a streamlined way.

L. Provide dedicated staff to support the CRC.

For the most part the current IPR director has provided CRC with adequate staff support, but this has not always been the case. The code should include a provision that entitles CRC to the staff support it needs to carry out its powers and duties.

III. OPENNESS, USEFULNESS, AND SPEED OF REPORTING

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

The findings currently available to bureau supervisors in misconduct cases (Sustained, Exonerated, Unproven) lack precision, create confusion, and were adopted with no community or CRC input a few years ago. Eileen Luna-Firebaugh pointed out that they take Portland away from the standard in the field and make comparisons over the years and among cities difficult. The Portland Police Bureau should return to the original findings of Unfounded, Exonerated, Insufficient Evidence, and Sustained.

The League recommends incorporating the findings into the city code so that in the future any proposed changes to them will receive a thorough public discussion and Council approval.

****B. Ensure that findings routinely indicate a separate rating regarding the overall incident that would identify the presence of any policy-related issues as the term is defined in the city code. Add training, communication, management, equipment, and other policy-related issues to the possible findings.**

Adding policy-related ratings to the findings will help the bureau identify systemic issues, but will not be directed at a particular individual. The policy findings will provide the bureau with valuable information that will lead to improved policies and training.

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

The current term is an insult to members of the public who feel the police have mistreated them. “Non-disciplinary complaint” captures more accurately the true nature of this type of complaint.

****H. Make certain task forces public.**

Bureau/IPR task forces or committees formed to focus on policy issues such as use of force should be open to public observation. This will increase public understanding of police policies and add value to resulting public comment.

M. Order another expert review in 2012.

Although the Luna-Firebaugh report was met with considerable resistance upon its release, it has proved to be a valuable resource to the community and helped stimulate widespread examination of our oversight system. Routine independent reviews of the IPR are necessary for holding our oversight system accountable to the public. It may be necessary, however, to adjust the timing of the expert review so that it is initiated about two years after adoption of significant changes to the system.

IV. POLICE REVIEW BOARD STRUCTURE/PROCESS

****A. Do not permit the supervising RU commander to vote as a member of the Police Review Board.**

The RU commander is the individual responsible for formulating the findings in misconduct cases that the Police Review Board considers. Therefore, there is an inherent conflict of interest when that same commanding supervisor is a voting member of the board. The Police Resource Assessment Center advised against this practice in two of its reports.

V. COMPLAINT-DRIVEN PPB POLICY IMPROVEMENT PROCESS

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

The public and police bureau would benefit from a discussion of bureau policies when they are in draft form. The bureau should consider CRC and public input on the policies related to new and revised directives. Bureau policies should reflect not only good policing techniques, but community values as well.

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