



League of Women Voters of Portland

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Date: September 4, 2024

To: Mayor Wheeler and Commissioners Gonzalez, Mapps, Rubio, and Ryan

From: League of Women Voters of Portland
Carolyn Buppert, president
Debbie Aiona, Action Committee chair

Re: City Code for Community Police Oversight Board

The League of Women Voters of Portland began studying policing in Portland in the 1960s and has been engaged in issues related to law enforcement and police accountability since that time. We supported Measure 26-217 and the Police Accountability Commission's (PAC) recommended code.

The League appreciates the improvements the city has made to its draft code since its release last fall. It would benefit, however, from additional modifications that will build trust, incorporate transparency, result in improved policing and accountability, and support a successful civilian oversight board.

Continuous improvement: Effective police oversight systems do more than handle individual complaints. They incorporate methods that capture what is learned from individual misconduct cases in order to facilitate continuous improvement in policing and accountability.

We recommend that the city add provisions for systemic findings, Sentinel Event Reviews, and regular performance reviews of the Office of Community-based Police Accountability and its community board. Systemic findings in misconduct cases identify training, equipment, policy, supervisory, and other issues beyond the individual officer's control. Sentinel Event Reviews are inclusive, comprehensive non-blaming examinations of undesirable events involving the police that aim to avoid future harmful outcomes. Expert performance reviews of the new accountability system will help ensure it performs effectively.

Community Board for Police Accountability -- panel sizes in deadly force cases: The public and city are placing a great deal of responsibility in the hands of the Community Board for Police Accountability (CBPA). The city should avoid policies that will make the board's job more difficult than it needs to be. The draft code calls for a minimum of 11 out of the 21 CBPA members to participate in deadly force and in-custody death cases. We understand investigative files in these more serious cases can be extremely lengthy and are required reading for the panelists. We do not understand why it will take more people to hear these cases under the new system than it does now. Indeed, tying up so many in time-consuming preparation risks board member fatigue and resignations. The code should maintain our current policy of seven panel members in deadly force cases.

League of Women Voters of Portland:

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

Public trust in the new system: For years, we have heard that individuals who believe police have harmed them do not trust a system in which the police investigate their cases. The fact that, under the new system, internal affairs will continue to investigate a large number of cases will erode public trust. The OCPA should handle all misconduct complaints from the new system's inception. Furthermore, including law enforcement representatives on the nominating committee will also lead some to doubt the new system's legitimacy.

Complaint Navigator: The draft code appears to allow assignment of a Complaint Navigator only in cases where there will be a full investigation. That would leave complainants whose cases never reach that stage without assistance. In the interest of providing support to all complainants, the city should consider making it clear in the code that complainants are entitled to a navigator from the start of the process.

Right to appeal: An important feature of our current accountability system is the complainant's right to appeal findings in misconduct cases. This right is not included in the draft city code. Police officers continue to have more than one avenue for appeal, while complainants will only be able to appeal dismissals. This imbalance will lead some to question whether our new oversight system is fair to all. In the interest of fairness, the complainant's right to appeal the findings in their case should be restored.

Incorporating transparency: Under the new system, proceedings in misconduct cases will take place behind closed doors, but the CBPA will vote in public. In the interest of transparency and increasing public understanding, a basic explanation of why the complaint was filed, a list of allegations, bureau directives considered, findings, and discipline imposed should be shared at that public meeting and in written reports. Names of officers and complainants can be protected, balancing privacy considerations with the public's right to know.

Misconduct case findings: The draft city code calls for two findings in misconduct cases: sustained or not sustained. It is accepted practice elsewhere and in Portland, however, to use four findings. Findings used in Portland include: sustained, not sustained, exonerated, and unfounded. Four findings allow for more nuanced dispositions and are recommended by national experts. Portland should continue this practice.

Conclusion

The League has worked for years for an effective civilian police accountability system. We expected that with the passage of Measure 26-217, Portland would finally enact a system with jurisdiction over all cases of police misconduct, independent from the police bureau, and governed by a community board. Per the mandate from city council, the Police Accountability Commission designed such a system. The city's proposal adheres to the basic provisions of the charter amendment, but fails to include many of the features that would create the type of system Portland voters supported when they overwhelmingly passed Measure 26-217. Even at this late stage, there is room for improvements to the draft code and the League urges you to carefully consider our recommended changes.