

Police Oversight Stakeholder Committee
August 12, 2010 Working Draft

This is a draft only. This document is scheduled to be reviewed and finalized at the August 12 meeting of the full committee. It is anticipated that voting will occur following any final changes approved at that meeting.

Ballot for Selected Suggestions

The following topics are either remaining issues to clarify from previous discussions by the whole committee or are topics that have been proposed by the subcommittee to be put to a vote.

It is proposed that a survey like the one shown here will be sent to all committee members with the request that each member of the committee vote as they see fit and return their responses via e-mail to the facilitator. A substantive timeframe for voting (e.g. a week or more) would be allowed to ensure that those committee members who desire more familiarity with an issue may consult other members or otherwise gain additional insight prior to voting.

The results of the voting, combined with the decisions already made by the committee, will be reflected in the final draft report, which will be reviewed at the September 16, 2010 meeting at which time any changes noted that are necessary to correct factual errors in the report will be addressed prior to submitting the final report to City Council.

Votes that meet the following conditions will be tallied for final reporting to City Council:

- ▶ *Only one “vote” per committee member — that is, if both a committee member and one or more alternates vote, we will count only the votes of the primary committee member.*
- ▶ *The report will include a tally or analysis of the voting presented in a manner that provides sufficient detail to permit readers to understand critical information that goes beyond the simple question of majority result.*

The following information is required in order for your vote to be considered in the final tally. Votes provided anonymously will not be counted.

Name _____

Stakeholder represented _____

<p>1. Make it easier for the Auditor to hire outside counsel at the Auditor’s discretion. Specifically, change Portland City Code 3.21.070.O. to read:</p> <p><i>The Auditor may work through the City Attorney’s Office to hire outside legal counsel to support the purpose and duties of IPR when the Auditor determines the Auditor and the City Attorney agree that outside legal advice is necessary or advisable.</i></p> <p>In addition, if it is determined that the above change cannot occur without a Charter change, then such a change should be supported to enable it.</p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>2. If complainant opinions support doing so, move investigative resources from IAD to IPR. (<i>Background: There is already a committee consensus that it would be a beneficial measurement tool to ask complainants, at intake, their opinions of whether, if they had the choice, they would prefer to have IPR or IAD investigate the complaint.</i>) The additional recommendation is this: <i>If the results of such measurements indicate a substantive preference for investigations by IPR, move investigative resources from IAD to IPR.</i></p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>3. Ensure that IPR investigates specified more serious complaints. Have IPR conduct administrative¹ investigations of use-of-force complaints, and in particular, shootings, deaths in custody, and other serious injury incidents. Monitor any associated criminal investigation as well. Have IPR conduct other investigations involving allegations of racial profiling, illegal searches, conflicts of interest, or other “high emotion in the community” issues.</p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>4. Ensure that IPR has, and exercises, the power to conduct or participate in investigations (from time zero) of specified serious incidents, including police shootings, deaths in custody, and other serious injury incidents consistent with the intent of the recommendations of the PARC report on the subject. (<i>Background: Chapter 4 of the August 2003 PARC report² recommends that “The PPB should replace its Homicide-only investigative model with one that takes a multidisciplinary approach to deadly force and in-custody death cases. We believe either the IA Overlay model as enhanced by the LASD, or the enhanced Specialist Team model used in Washington, D.C., would work well in Portland.”</i> The approaches discussed are designed to accomplish the goal of more timely investigation without unnecessary conflicts during any initial time period when both criminal and administrative investigations are being conducted.)</p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>5. Require that IPR investigate all complaints of those with the rank of captain or higher.</p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>

¹ The term “administrative” investigation is used here to draw a distinction from the criminal investigation which would seek to determine if a crime has been committed. An administrative investigation would, for example, evaluate whether the officer acted in a manner that is consistent with Bureau policy and training.

² Available online at the IPR report page at: <http://www.portlandonline.com/auditor/index.cfm?c=27068>.

<p>6. Ensure that IPR has the authority to compel officer testimony and directly interview police officers.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>7. Request that Auditor’s Office provide regular reports on the status of the Bureau’s Employee Information System and on independent analysis of police stop data. <i>The recommended approach:</i></p> <p>Revise 3.21.070 B. to read: “Report on complaint <u>and related</u> activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor, and track <u>and report to the same parties regarding trends relating to Bureau member interactions with the public as documented by other available data sources such as the Employee Information System (or equivalent), police stop data,</u> member history and complaint type and frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.”</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>8. Use definitions specified for the four-category finding method. Definitions for separating the current three categories of findings into four categories (a concept that the committee has already agreed on), should be as follows:</p> <p>Unfounded/Not supported: Over 50% of the evidence shows that the officer did not do what the complainant alleges (the evidence does not support this allegation).</p> <p>Exonerated/In policy: Over 50% of the evidence shows that the officer did what the complainant alleges, but it was within Bureau policy</p> <p>Insufficient Evidence: There is not enough evidence to show either (a) whether the officer did what was alleged or (b) whether the officer's actions were within Bureau policy</p> <p>Sustained/Out of policy: Over 50% of the evidence shows that the officer did what the complainant alleges, and it was not within Bureau policy</p> <p>All of the above could be qualified by With debriefing: While the officer was not necessarily out of policy, a supervisor will discuss ways the incident could have been handled better.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>

<p>9. Use definitions specified for policy-related issue findings. (<i>Background: The committee has already agreed to the concept of ensuring that findings routinely indicate a separate rating regarding the overall incident that would identify the presence of any “policy-related issues” — a term defined in Portland City Code 3.21.010.U which is essentially intended to describe issues that pertain to Police Bureau practices but not pertaining specifically to the propriety or impropriety of a particular Bureau member’s conduct</i>). It has been recommended that the following definitions for the those elements be as follows:</p> <p>Training issue:</p> <ul style="list-style-type: none"> (i) The individual officer did not receive adequate training about actions in question, (ii) Many officers did not receive adequate training on these actions, or (iii) The Bureau’s training on this action is inadequate. <p>Communication issue: The outcome of the incident was due to information that was not communicated...</p> <ul style="list-style-type: none"> (i) Among officers, or (ii) From another agency to officers. <p>Management issue: The outcome of the incident was due in part to</p> <ul style="list-style-type: none"> (i) The command structure and supervisory protocols surrounding the incident, or (ii) Supervisory instructions, decisions, or behaviors that did not involve misconduct but did lead to action prompting the complaint. <p>Equipment issue: A better incident outcome would have been possible had improved, different, or additional equipment been available for use during the incident.</p> <p>Other policy-related issue: While the Bureau member did not violate policy,</p> <ul style="list-style-type: none"> (i) The policy appears either inadequate or incomplete for proper management of the incident and can be detrimental to community-police relations or public safety in this type of incident; or (ii) A policy does not exist to address the actions that prompted the complaint. 	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>10. Replace the term “service improvement opportunity” with the term “non-disciplinary complaint.” (<i>Background: These are complaints about the quality of an officer’s service or minor rule violations that are typically handled through a process that includes an officer’s supervisor first speaking with the community member making the complaint, then to the officer, and then re-contacting the community member to explain the outcome. Supervisors document their conversations, recommendations, and actions in a memo, which must be approved by the precinct Commander, IAD, and IPR. Note that, while “minor complaint” was initially suggested for the new term, “non-disciplinary complaint” has been suggested because it describes the situation without the need to characterize a complainant’s concern as necessarily “minor” in nature.</i>)</p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>
<p>11. Ask opinion on complaint-handling preference. For tracking and other purposes at intake, when applicable, the IPR will ask and record the complainant’s opinion in response to this question: <i>If the choice were the complainant’s, would he or she prefer to have a full investigation or to have the complaint handled through the non-disciplinary complaint (or Service Improvement Opportunity as it is currently called) process?</i></p>	<p>Favor <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>No Opinion <input type="checkbox"/></p> <p>Abstain <input type="checkbox"/></p>

<p>12. Ensure CRC may hold hearings on all appeals requested by complainants or Bureau members. Ensure that the CRC may conduct hearings on all appeals within its purview without delays associated with concerns that the outcome of their review could help support a civil claim against the City.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>13. Clarify CRC authority to present directly to Council. Ensure that the CRC has the authority to make its own presentations in cases that go to Council for resolution when the CRC and Bureau do not reach agreement on findings in an appealed case. Specifically: Modify Portland City Code 3.21.160.C. to include the sentence: <u><i>The Committee shall present its recommendations before Council.</i></u></p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>14. Permit CRC to compel testimony. Ensure that the CRC has power to compel officer testimony and the testimony of other witnesses at appeal hearings. Suggest changing Portland City Code 3.21.090.A. to include a new numbered paragraph that would read: <u>Compel testimony. <i>At appeal hearings CRC shall have the power to compel officers and other witnesses to testify regarding the incident or incidents under review.</i></u></p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>15. If the CRC is not given authority to compel testimony, then grant City Council the power to hear new evidence. (Background: Currently, the CRC may hear new evidence when holding hearings on appeals, but cannot compel testimony, while the City Council can compel testimony but may not hear new evidence. The overriding recommendation is to vest the power to do both in one review body.)</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>16. Increase size of CRC. Increase the size of the CRC from 9 to 11 members. This has been recommended as a method to encourage more diversity and spread out the workload. Changes Portland City Code 3.21.080.A. to read: <u><i>The Committee shall consist of eleven nine citizens...</i></u></p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>17. Allow CRC to review proposed allegations prior to investigation. Develop a method that is consistent with the benefits of timely investigation (such as providing a limited time or opportunity to review) that allows the CRC, prior to IAD or IPR initiating a full investigation, to review the proposed allegations to ensure they match the complainant's concerns and align with police bureau policies.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>18. Increase CRC authority to act on dismissed complaints, service complaints, and formulation of allegations. Specifically: Strengthen CRC's independent authority to send complaints back for further investigation, to re-categorize allegations, and to review dismissed and declined complaints. (Would modify Portland City Code 3.21.160.A.1.b. to broaden authority from revision of findings.)</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>19. Establishing an avenue for appeal or reconsideration for cases involving quality-of-service or minor rule violations. For example, allow citizens to appeal dismissed complaints or low-level, so-called "service" complaints against officers to the Citizen Review Committee.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>

<p>20. Provide dedicated staff to support the CRC. Specifically: Change Portland City Code 3.21.090.A. to include a new numbered paragraph that would read: <u>Direct committee staff.</u> <i>To direct a staff person assigned to the Committee to provide staff support for the powers and duties outlined in this chapter.</i></p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>21. Make it easier for complainants to get publicly available records. Direct IPR and PPB to establish an interagency agreement that would allow the Director discretion to release case-specific records that are already generally available to the public to complainants or their representatives. (<i>Background: The concept is to allow complainants a greater likelihood of being able to gain publicly-available information about their cases at one location — IPR in this case — rather than having to physically wait for service at both IPR and the Police Bureau Records Division for complete information.</i>)</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>22. Make certain CRC review documents available to the public. Ensure that documents utilized by the CRC in reviewing complaints are also accessible to the public, with the understanding that some documents may require redaction to protect the security of complainants, officers, and witnesses.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>23. Required reporting on reasons for long investigations. Require monthly public reporting (including, but not limited to, reporting to the CRC at regularly scheduled meetings), by the investigating unit (either IPR or IAD) on the specific reasons that investigations lasting over 150 days have not been completed.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>24. IPR & CRC to be provided drafts of certain policy-change decisions. All changes to Police Bureau policies that relate to Bureau member interactions with the public (or to the investigation of such interactions), including, but not limited to, use-of-force policies, should be provided to both IPR and CRC in draft form prior to policy adoption who shall be given the opportunity to review and make recommendations.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>25. Make certain task forces public. Require that any task force charged with policy review that includes members of IPR or the CRC be open to public observation. (<i>Background: This recommendation grows out of concerns about a Use-of-Force Task Force whose meetings were not open to the public.</i>)</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>26. Mandate investigative resource levels. Mandate a level of investigation resources that is sufficient to ensure all investigations can be completed in a timely manner.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>

<p>27. Add another citizen member to PRB for use of force incidents. 3.20.140.C.2. Police Review Board (Composition of Board) should be modified to read as follows: <i>“However, when the incident to be reviewed by the board involves the following use of force incidents, one <u>two</u> additional citizen members and one additional peer member shall serve on the Board, for a total of seven <u>eight</u> voting members. A quorum of six voting members, including two <u>three</u> citizen members, and four Advisory members, including the RU manager or designee, is required to be present to make recommendations to the Chief.</i> <i>a. All officer involved shootings.</i> <i>b. Physical injury caused by an officer that requires hospitalization.</i> <i>c. All in-custody deaths.</i> <i>d. Less lethal incidents where the recommended finding is “out of policy”.”</i></p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>28. Require prompt explanation for decisions that differ from the Police Review Board’s recommendations. Require the Chief or Commissioner to explain in writing, publicly, the basis for their decision when it differs from the PRB’s recommendation and to do so in 30 days.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>29. Require more specific reporting on the relationship between sustained findings and discipline. Require that the IPR annual report provide additional, non-officer-specific information about the scope of discipline imposed for specific categories of sustained findings. The intent of this recommendation is to encourage reporting that would allow better public understanding of the correlation between the seriousness of a sustained complaint and the level of discipline commonly imposed.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>30. Report on aspects of the “mitigation” process. The public shall be informed regarding the rate at which recommended discipline for cases that involve shootings, deaths in custody, or use-of-force injury requiring hospitalization is changed in mitigation. The intent of this recommendation is to encourage reporting that would allow better public understanding of the correlation between the level of discipline recommended for particularly serious cases and the level of discipline commonly imposed.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>31. Order another expert review in 2012. On or before July 1, 2012, order an independent expert review of the Police Review system and the impact of the changes made by ordinance and practices since March of 2010.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>
<p>32. Hold another stakeholder review. Have City Council require another stakeholder review to begin no later than upon completion of an expert review initiated in 2012 or, if no review is initiated, January 15, 2013.</p>	<p>Favor <input type="checkbox"/> Oppose <input type="checkbox"/> No Opinion <input type="checkbox"/> Abstain <input type="checkbox"/></p>