



Officer sprays protestor in mouth at May Day-p. 11

The People's POLICE REPORT

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PORTLAND POLICE RACK UP MORE SHOOTINGS BY JULY THAN IN ALL OF 2014

Three Incidents in 7 Weeks Leave One Dead, Two Wounded; Indicted Officer Kills Self

The US Department of Justice swept into Portland in 2010, launching an investigation in 2011 that determined, in 2012, the Police Bureau has a pattern and practice of excessive force, especially against those in mental health crisis (PPR #58). Yet the PPB seems to keep shooting and killing people in crisis, even with



OPB, June 29
Portland Police shot three men, wounding two and killing one. In all of 2014, there were four police shootings; just days past the halfway mark of this year, there had already been 5. Meanwhile, the only Portland officer ever indicted for on-duty use of force committed suicide. Also, the Portland Police Association (PPA) President unearthed an incident in which he fired a shot 20 years ago that was not in any previous reports. Plus, not surprisingly, officers were found not guilty of criminal or administrative misconduct in a number of incidents.

federal scrutiny and national outrage about officer involved shootings. In the seven weeks from May 17 to July 5, Portland Police shot three men, wounding two and killing one. In all of 2014, there were four police shootings; just days past the halfway mark of this year, there had already been 5. Meanwhile, the only Portland officer ever indicted

for on-duty use of force committed suicide. Also, the Portland Police Association (PPA) President unearthed an incident in which he fired a shot 20 years ago that was not in any previous reports. Plus, not surprisingly, officers were found not guilty of criminal or administrative misconduct in a number of incidents.

The first of the three shootings (May 17) came after Michael Shawn Harrison, 47, had been roaming a SE neighborhood and cutting himself with a knife. Clearly in mental health crisis, Harrison apparently broke into a woman's home and asked if the children were there, a detail the police managed to include in their news release to add to a sense of menace (the woman and her two kids hid in the basement and were unharmed). As he came out of the house, Officer Raelynn McKay (#52686), was "forced" to shoot because Harrison ran at her with the knife—at least that's the terminology the Bureau chose to use. Sergeant Martin Padilla (#37143) fired a "bean-bag" round at Harrison prior to the lethal rounds being fired. (continued on p. 6)

POLICE REVIEW BOARD REPORT SHOWS AMAZING MISCONDUCT, MIXED DISCIPLINE, LITTLE ABOUT SHOOTINGS

July 2015's Police Review Board (PRB) report includes an astounding range of misconduct, and leaves the impression that while some of the application of discipline was appropriate, others seemed to minimize very serious matters. For example, Officer Alfonso Valadez, Jr. created a "tough guy cop" YouTube video using footage from an investigation into whether he committed misconduct by pushing a person in the Detox center, but only got a slap on the wrist. There are still many details—including the gender of the officers involved—which are not being included in the reports. The report covered 17 incidents, including the shootings of Paul Ropp and DeNorris McClendon, and possibly one connected to the shooting of Kelly Swoboda (see shootings article). One case deals with the use of a Pursuit Intervention Technique (PIT) stop as a use of deadly force from December 18, 2013.

Portland police officer who made YouTube video dubbed 'Ghetto Productions' faces minor discipline



Portland police officer who made a video starring himself as a self-proclaimed tough "SOB" cop and that included video surveillance images from a criminal inquiry has received a letter of reprimand for posting the footage on YouTube.

Valadez's video was credited to "Ghetto Entertainment." The PRB noted the person in Detox had his/her privacy and medical information compromised, yet though a civilian was involved, the issue was investigated as a "Bureau only" case. On July 28, the *Oregonian* reported that the 10 hours time off the PRB report shows Valadez received was reduced to a letter of reprimand. The reduction was probably in part because the Board wrote off the potentially criminal video as "youthful poor judgment," noting Valadez had five commendations and no prior offenses. The big question, though, is why the PRB report reflects the wrong discipline when City Code requires the final discipline to be listed. (continued on p. 5)

DEPARTMENT OF JUSTICE SETTLEMENT CREAKS FORWARD; JUDGE'S ORDER ENDS CITY APPEAL

More Resignations Plague Increasingly Subdued Oversight Board; New Local Liaison Appointed

Much has happened around the US Department of Justice (DOJ) Settlement Agreement with the City to address the findings that Portland Police use excessive force against people, especially those in mental health crisis. The Community Oversight Advisory Board (COAB), tasked with "independently" assessing implementation of the Agreement, met six times between May and August. The group, which initially had 15 voting members, 5 police advisors and 5 alternates, has now lost five of its original members, leaving only one person to fill an empty spot should another resign. The Compliance Officer/Community Liaison (COCL), Dr. Dennis Rosenbaum of Chicago, released the first quarterly report on the Agreement in May, which in short says there has been some progress but there is a lot more work to do. After the resignation of Justice Paul DeMuniz (PPR #65), the City found a respected replacement in Portland activist Kathleen Saadat to fill the community liaison role for the Chicago team hired to oversee compliance with the Agreement. Meanwhile, the City's appeal of the case (continued on p. 2)



Kathleen Saadat

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DOJ Agreement Moves Forward, with Warnings to Community Board (continued from p. 1)

effectively ended on July 30 when Judge Michael Simon entered an amended order changing the annual “hearings” (which would have allowed evidence to be presented) to “status

conferences” (discussions and Q&A only).

Following complaints that COAB was never given the tools needed to do their work, many of their meetings focused on training. On May 14, they received a “Settlement Agreement 101” talk from the COCL, the DOJ, the City, and (briefly) the Albina Ministerial Alliance (AMA) Coalition for Justice and Police Reform, which sits at the table as an “enhanced amicus” (friend of the court) in the case. The June 25 meeting was mostly taken up by the Bureau’s Training Division explaining how the police are organized and what their training entails. July 9 included discussions and votes (more below) but also presentations from the “Independent” Police Review Division on the complaint system and from the City Attorney on the ethics and duties of being “public officials,” as the community members on COAB now are considered.

This discussion was prompted by an activist who wanted to donate books on police accountability to COAB members, but was prohibited when the City Attorney called them inappropriate gifts under ethics rules. Since the COAB can’t do anything but comment and recommend, it is not clear how their role resembles a City employee or Council member.

The May 28 meeting was a community forum on the COCL’s quarterly report. A number of COAB members expressed concerns about the document, including how it warned against “pressure from outside groups to pursue an activist approach to police reform, versus a collaborative partnership model.” During public comment (and in a written response), Portland Copwatch pointed out “nothing in the Agreement requires the COAB to ‘collaborate’ with the Bureau, nor to go to the Citizens Academy or on ride-alongs. The essential problem is not that the public doesn’t understand what the police face on a daily basis, but that the police do not put themselves often enough into the shoes of community members.” We also noted “asking the community to ‘collaborate’ with the Bureau is like asking an abused spouse to collaborate with her/his abuser.”

On June 11, the COAB spent considerable time going through dozens of proposed recommendations to the COCL’s report and voting to adopt more than 20. Many of the ideas ended up in the final report, released in June, and many reflected PCW’s comments— including the idea of focusing more on the importance of the police using less force, the key element of the Agreement. However, the report still includes a number of recommendations made by Rosenbaum that never got discussed by the COAB, including his call for the PPB to obtain body cameras, and a few references to community policing-type programs he has co-authored.

It’s somewhat amusing how Rosenbaum and his team partner Amy Watson cite their own work, but refuse to put in names of people they interviewed to generate the report. This “anonymous syndrome” also plagued Portland’s annual reviews of deadly force incidents for years until the Auditor agreed to let the consultants use the names of civilians and officers involved. The section on policy review, for instance, talks about how the “same person” is involved in all the steps of preparing and publishing new Directives, but doesn’t identify that person. It doesn’t even name the Chief of Police, even though everyone knows who he is.

The report was also the first place community members learned the COCL’s office moved again, from its second home at the Bureau’s Traffic Division (also PPR #65) to downtown Portland at the Office of Equity and Human Rights. Though the report originally stated the COCL would not have regular office hours, the revised version indicates they will. This step is important, not only because Justice DeMuniz was pretty assertive about getting out to meet community members, but also because the input the COCL recommended—the comment time at COAB meetings—is limited to 5-8 people speaking for 2-3 minutes each.

After Joshua Robinson resigned from COAB’s alternates pool in April, Kristi Jamison resigned from the Portland Commission on Disabilities, thus had to give up her COAB seat. Cory Murphy resigned at the June 25 meeting and Vanessa Gonzalez was removed for lack of attendance. Stepping up into the empty seats were powerhouse Portland attorney Tom Steenson, and Black Lives Matter activist Laquida Landford. In August, Human Rights Commissioner Emanuel Price resigned, replaced by Se-ah-dom Edmo.

What else has the COAB done?

—The debate over who should conduct community surveys on how the police are viewed was resolved. On June 10, City Council accepted COAB’s proposal to reject Portland State University’s perceived biased pollsters (PPR #65) and instead hire the firm Davis, Hibbets, Midgehall;

—On July 9, they voted to amend their bylaws to allow adding more subcommittees;

—Also on July 9, COAB voted to adopt a strategy for the Community Engagement and Outreach plan.

Though Jimi Johnson, of the Community Engagement & Outreach Plan Subcommittee (CEOPS), read the survey contract proposal to the COAB (and Council), these last two items were read into the record by Saadat and staffer Amy Ruiz. In August, bucking this trend, Data Systems, Use of Force, and Compliance Subcommittee (DSUFCS) co-chair Tom Steenson read proposals to (a) create a new Accountability subcommittee (adopted unanimously) and (b) recommend changes to PPB’s Force policies. Those changes include removing the 48 hour waiting period to interview officers after shootings. Despite filibustering by Portland Police Association (PPA) attorney Anil Karia, the recommendations passed 12-2.

In July, DSUFCS discussed their experiences at the “Citizens Academy,” with most members expressing how their perspectives were changed by participating in a scenario where a gun was involved.

Steenson, on principle, would not participate in the hands-on training and remained objective, though advisory Officer Paul Meyer kept needling him as an outcast for making that decision. COAB member Sharon Maxwell said she was unable to pull the trigger when the scenario called for it. Her experience should have tempered the DCUFCS’ discussion after PPA President Daryl Turner presented his rationale to keep the 48-hour rule in place. Revealing he’d been involved in a shooting in 1995 (p. 1), Turner expressed how it was the most traumatic experience of his life. When COCL/COAB members expressed compassion for his “having to” take a human life, Turner did not correct them to clarify that his single bullet did not hit the suspect.

Because the Agreement is so far-reaching, changes continue to be made with little notice or discussion. On June 17, the Bureau asked for and got \$1.8 million from City Council to upgrade their Tasers from the X26 model to the newest version. Taser International stands to make a fortune because they discontinued the old model, yet the new ones use the same cartridges, so PCW wondered why they had to replace all the electro-shock weapons at once. Training Captain Brian Parman said it would be easier to train all the officers on the same weapon—and nobody on Council asked whether that means every officer carries the same gun (they don’t).

Meanwhile, reports keep getting generated about the Bureau’s Use of Force (still disproportionately against African Americans), Directives come up for review, and the DOJ makes presentations to other groups (including the Citizen Review Committee—p. 4). Both PCW and the AMA Coalition encourage more community members to attend and observe the COAB’s full and subcommittee meetings as their recommendations may affect us all.

The New York Times Training Officers to Shoot First, and He Will Answer Questions Later

WASHINGTON — The shooting victim had, but first to whom the professor is at his best. A black man, pulled to the side of the road for a non-violent violation, had stuffed his hand into his pocket. The white officer yelled for him to take it out. When the officer started to comply, the officer shot him dead.



The driver was unarmed. Taking the stand at a public request, William J. Lewinski, the psychology professor, explained that the officer had no choice but to act.

William J. Lewinski, a psychologist who has studied police shootings, held a training session at the Association for Los Angeles County Sheriffs in Monterey Park, Calif., last month. (Photo Courtesy: The New York Times)

On August 1, the NY Times did a brilliant article slamming the “science” of Dr. Bill Lewinski, who advocates 48 hour (or longer) waiting periods to interview cops and shooting before you see a weapon.

The other two current COAB committees are: the Executive Committee and the Mental Health Crisis Response Subcommittee (MHCRS).

Oregon US Attorney Amanda Marshall, who took a leave of absence after allegations of inappropriate workplace behavior arose (PPR #65), resigned effective May 15. Bill Williams is now acting US Attorney and oversees the DOJ Agreement locally.



Citizen Review Committee Gains Power to Order Investigations

IPR Seeks Input on Other Changes; Hearing Generates Confusion; DOJ Presentation Skims CRC Role

As reported in *PPR #65*, the Citizen Review Committee (CRC), which among other things hears appeals of police misconduct cases, now has 6 relatively new members and 5 who've served no more than two years. The institution has been around since late 2001, yet in a May City Council vote CRC gained its first actual power to direct the City to do something: conduct more investigation when a case they hear has inadequate information. The board also heard its first appeal in over 6 months, grappling with new definitions attached to the findings on allegations, in the end leaving the Appellant feeling she was being called a liar. The Code changes in May came in part under the mandate of the US Department of Justice (DOJ) Settlement Agreement, the topic of a special presentation at CRC's July meeting. Meanwhile, the "Independent" Police Review Division (IPR), which houses CRC, began conducting its ninth "independent" investigation of a community complaint* and held a series of forums ostensibly to seek input on how to improve the oversight system.

Changes to CRC: Case of Broken Arm Prompts Change; Timeline of Appeals Partially Compressed

After the community meeting held in late April about his proposal to change the ordinance governing the CRC (*PPR #65*), IPR Director Constantin Severe fixed most of the language to which Portland Copwatch had objected.

The most significant change was the addition of CRC's ability to order either Internal Affairs (IA) or IPR to conduct further investigation. We refer to this change as the "Maynard Clause" after Craig Maynard, a man who had his arm broken by Officer Christopher McDonald over an alleged missing bicycle reflector and later took his own life. Maynard's family appealed to CRC, and when IA and IPR both refused to do more investigation, Mayor Sam Adams ordered the Bureau to do so (*PPR #58*). The ordinance now includes language from the DOJ Agreement that such a request may cover more than one area of inquiry.

Though the DOJ Agreement states the entire timeline for a person to resolve an appeal of their investigated complaint should be 21 days, DOJ attorney David Knight suggested the timeline could be longer, perhaps 45 days (*PPR #64*). Changes around this concept included the unfortunate reduction of time to file an appeal from 30 days to 14 days, though an "escape clause" was added after PCW raised concerns that most appellants need time to understand the process. PCW prevented language from being adopted that would have implied the Case File Review (CFR—the "pre-hearing" to determine whether there's enough information to hold an appeal) and the appeal hearing had to occur on the same day. IPR is pushing that idea to accelerate the timeline, but it will likely result in the kind of botched process that led to the creation of the CFR in the first place.

See video of Knight posted by PCW at <https://youtu.be/WBLXMmrJMGi>

Director Severe and Auditor Mary Hull Caballero indicated they would not propose other changes to the system unless there were three Council votes to support them. Beginning in May, they held a series of outreach meetings which initially seemed to be honestly asking for input. The first meetings were held at City Hall (May), and at the Charles Jordan Community Center in St Johns (June). The July session at the Q Center in inner N Portland ended without any such discussion. The last session is scheduled for late August. The initial openness to change contrasts to just a few years ago when previous Auditor Gary Blackmer—who put IPR in place and gutted many of the community's wishes in the process—consistently blocked the idea of making any amendments to IPR's structure.

Case 2015-X-0001: Officer allegedly was rude, entered home without permission, lied about said entry

For the six newest CRC members, the appeal on case 2015-x-0001 was their first hearing ever. At the Case File Review in May, the basics of the case were revealed:



The appellant in case #2015-x-0001 (left) explained to CRC members (right) her conversation with police saying her landlord was not welcome in her apartment, while East Precinct Commander Dave Hendrie, IA Lt. Jeffrey Bell and Professional Standards Captain Derek Rodrigues from the Bureau (center) looked on.

The cops entered the Appellant's apartment to look for her son, who was apparently wanted on a warrant—and maybe another of her sons gave permission for them to enter. When arguing with the Appellant (Nicole Siri) whether the son with the warrant lived with her or not, she felt the officer was demeaning and called her a liar. Ms. Siri was in a dispute with her landlord and states she had a restraining order on him. The landlord had asked the police to accompany him to inspect damage to the apartment—so the cops went back less than half an hour later to facilitate his entry. Ms. Siri says one officer then signed a statement containing false information.

The June appeal hearing at St. Johns Community Center was a complicated mess untangling the separate visits, tenants' rights, who can OK police entry into a home, what Directives were violated, and confusion caused by the Bureau's redefining their findings last fall. So not only were most CRC members working on their first case, they were grappling with new definitions that were never explained to them. Things were made worse when City Attorney Glenn Fullilove misstated the rules governing the Committee.

The person with the best perspective on the hearing was former CRC member Jeff Bissonnette, acting as Appeals Process Advisor for Ms. Siri. Bissonnette

clarified that a harassment complaint by a neighbor led to a first visit by the cops, who then entered to do an unsuccessful search for the son; then 10-15 minutes later, police accompanied the landlord as he came in to take pictures. As the CRC deliberated on allegation #1, that the officer entered the apartment without permission, Bissonnette corrected Fullilove, who had told CRC they could decide the original finding of "Exonerated with a debriefing"*** was not supported by the evidence without suggesting a new finding.

CRC member Julie Ramos noted an average person seeing a uniformed police officer at the door does not necessarily know he/she has a right to refuse entry without a warrant. Members Roberto Rivera and David Green pushed the Bureau on the question of the state requirement that a landlord give 24 hour notice before entry, asking whether officers had any training on that law. IA Lieutenant Jeffrey Bell said they didn't ask that question because it was "not related to the misconduct allegation." The Bureau says Ms. Siri did not verbally invite the officer in but stepped aside to allow entry, while she says they pushed their way in past her. *(continued on p. 4)*

*- In order for IPR to compel officer testimony, they still have to have a member of the Bureau's Internal Affairs division order compliance (*PPR #62*). IPR's cases include 6 from post-Ferguson protests (resolved as of August), the case of tasered teen Thai Gurule (*PPR #65*), and two "community complaints."

**-Exonerated means in policy, but the debriefing means the supervisor should talk to the officer about how they could do better.



Commander Dave Hendrie, the officer's supervisor, offered his analysis of why he attached a finding of "Exonerated" to the improper entry allegation, saying it wasn't claiming the officer was in policy despite entering unlawfully, but rather that the officer entered properly.

CRC then voted twice, first 10-0 (with Julie Falk abstaining) that the finding was not supported by the evidence, then again 10-0 to recommend it be changed to "Not Sustained" (insufficient evidence) with a debriefing.

Several CRC members noted the second allegation, that the officer was demeaning and called Ms. Siri a liar, should have been broken into two parts, rudeness and the issue of name calling. Because even Ms. Siri admitted the officer did not use those exact words, CRC supported the Bureau's finding of "Unfounded," even though if they'd been considering whether his conduct was rude, it might have been changed. This is not the first time the issue of poorly framed allegations has come up at CRC. CRC voted 9-1 to uphold the finding. Roberto Rivera voted no, stating he thought the officer didn't necessarily remember everything.

The question on allegation #3, whether the officer was untruthful in a sworn affidavit, could not be proven because nobody could produce a copy of the affidavit. According to documents the Bureau could find, the landlord's lawyer prepared a statement for the officer to sign but he never did so. However, because nobody saw the actual document, it's odd that (a) the Bureau decided to "Exonerate" the officer, implying he did sign the paper but was in policy, and (b) CRC voted 9-1 to change the finding to "Unfounded," since there was not enough evidence to prove or disprove it. As dissenting member Kiosha Ford noted, that means the finding should have been "Not Sustained."

Ultimately, CRC voted that maybe the Appellant was right about the entry, but she was wrong about both the officer's accusation of her being a liar and the affidavit being signed. The current definition of "Unfounded" uses disparaging language ("false or devoid of fact"), while a more recent description was more apt ("available facts do not support the allegation"). Because of the vote, Ms. Siri left feeling she'd been called a liar again— this time by CRC. This certainly compounded her feeling of helplessness, as the landlord's police-supported visit led to her losing her apartment.

For details on PCW's suggestions for Bureau findings, see
http://www.portlandcopwatch.org/directives_analysis0415.html.

DOJ and PPA Special Guests:

Race, Mental Health, Oversight, Staffing

At the July CRC meeting, Assistant US Attorney Adrian Brown attended to present on the DOJ Agreement. Scheduled for 15 minutes, Brown's session lasted over an hour and half including Q&A. However, nobody talked about the requirement for CRC to hold appeal hearings in a 21-day time frame, when they're a volunteer body meeting once a month and the paid staff has at least 159 days to complete an investigation.

Brown pointed out what the Agreement was and was not about, noting while PCW had provided statistics about racial profiling, the DOJ could not prove intent. PCW suggested a recent Supreme Court ruling that discrimination in housing can be proven using numbers and not intent should apply to police as well. Brown explained how the DOJ focused on mental health, saying training on handling people in crisis and constitutional policing both need attention. She repeated the DOJ's new catchphrase for those still pained because the DOJ has mostly ignored race—that people of color also have mental health issues. For what it's worth, an IPR intern researched the Bureau's Racial Profiling Plan, something that's supposed to be the responsibility of the Community/Police Relations Committee (Agreement paragraph 146d; see p. 8).

Brown repeated the disempowering analysis that since investigations of officer involved shootings are required, community members can't file complaints or appeals in those cases. She also claimed the community is involved in mental health training through the Behavioral Health Unit's Advisory Council, yet those meetings are not public.

On the bright side, Brown did encourage member James Young, whose work on CRC's Deadly Force Work Group led to a pending recommendation for more de-escalation and disengagement, to put forward such recommendations on their own and through the Community Oversight Advisory Board (COAB).

After a mixup in July, Portland Police Association President Darryl Turner showed up at the August CRC meeting, complaining about low staffing levels (see "Rapping Back"). He also claimed he doesn't send officers to CRC hearings because he had seen a few hearings years ago and felt CRC was unfair to them. PCW gave him a copy of PPR #64, in which we noted that of eight officers who have appeared before CRC, only one left with a "Sustained" finding.

CRC Work Groups

Other than hearing appeals, one of CRC's most important functions is to make recommendations to the Bureau. In May, Vice Chair Bridget Donegan instituted a Work Group to review the monthly list of Bureau Directives set out for public comment (p. 7). So far, no other CRC members are involved in this important work. Adding to a long list of frustrations, including the turnaround time, Donegan reported in July that the Bureau told her reports revealing the substance and number of comments made on Directives "will never happen."

Another new Work Group is looking at the CRC's Standard of Review, which currently requires them to agree with the police Commander if a "reasonable person" could come to the same conclusion given the evidence. Five members are finding a way to change that to a less deferential standard. PCW's 2011 analysis on this issue is at: portlandcopwatch.org/preponderance_analysis_0411.pdf.

CRC's Deadly Force Work Group does not seem to have met since April, but put forward a draft document in May summarizing three proposals including the one on disengagement/de-escalation in deadly force situations and one that allows appeals on deadly force cases. CRC has never discussed the document.

Meanwhile, CRC's Outreach Work Group works with IPR Outreach Coordinator Irene Konev to gather community concerns and explain how the IPR/CRC system works. Since CRC member Angelo Turner became Work Group chair, CRC reached out to the Portland Police Association, the Bureau's K-9 unit and the Portland Business Alliance (PBA). This adds to our concern that despite being a person of mixed race heritage, Turner is not a strong voice for communities oppressed by police. As PCW pointed out at the July meeting, the PBA has done more than just about anyone to make homeless people's lives miserable (see p. 9).

After a May report to CRC that IPR had visited a number of Portland Public Schools, Konev told the Committee she could not say what feedback came from the students nor which high schools they attended because it was "confidential." After pushback from CRC, in July IPR said they would publish all feedback from that outreach.



Portland Police Association President Darryl Turner at the August CRC meeting. In our last issue, we reported Turner had accused Independent Police Review Division investigators of intimidation (and racism). Auditor Mary Hull Caballero, in an unusual move, released the outcome of that Bureau of Human Resources complaint, showing IPR was found not guilty of any misconduct. Since the Auditor also revealed the PPA was trying to use supposedly confidential information about one of the investigators' criminal backgrounds to discredit IPR, we set the score at Auditor 2, PPA 0.

In mid-June, the new CRC members attended a training so they could rotate onto hearings for deadly force and other serious cases at the Bureau's Police Review Board.

Contact IPR at 503-823-0146

Audit Highlights Lack of Police Bureau Follow Through

In March, City Auditor Mary Hull Caballero released an audit of the PPB Training Division (PPR #65). The review showed a lack of consistent training on de-escalation techniques when dealing with persons in crisis. After each highly publicized incident in which a citizen was killed or injured, there was a flurry of activity. The PPB administration made statements about new training to address the issues and wrote Directives to assure such incidents would not happen again. Tragically, they lacked follow through. After a year or so interest in effective techniques to address the problems faded and the training content shifted to other topics.

For example, Aaron Campbell was killed by police in 2010 (PPR #50) and the city agreed to a large settlement in 2012. After much media attention, there was a strong focus on training in confrontation management. An executive order required officers to make decisions calculated to end encounters with persons in mental health crisis safely with as little reliance on force as practical. In the 2013 training, extensive time was spent on alternatives to force including de-escalation, disengagement, the use of mental health experts and Enhanced Crisis Intervention teams.

However, in 2014 training shifted to other scenarios where officers were approached by an aggressive person and use of force was allowed. When asked why they did not follow up on training for de-escalation with persons in a mental health crisis, they cited lack of funds as the obstacle to reinforce the 2013 techniques.

A similar lack of follow up training was evident after policy changes covering medical transport of injured persons. In 2006, James Chasse died while in custody after a struggle with law enforcement; officers initially took him to jail instead of the hospital (PPR #40). Soon after the incident, Chief Rosie Sizer issued a new directive on emergency medical transport detailing the responsibilities of all parties. In 2009 updates to policy and procedures were included in an executive order. When audit personnel inquired about this in 2014, Training staff could not find any new material since 2011, and were unable to find any lesson plans or recall any in-service presentation on proper procedure for medical transport.

The Training Division was commended for increasing professionalism and adding staff devoted to curriculum development and evaluation. The efforts to evaluate the effectiveness of the training are still being developed. At the time of the audit there were no systematic ways to assess whether officers were applying the training they received in the classes when they were out in the field.

As we noted previously, in one session none of the 12 officers present could correctly articulate the bureau's policy on when to use force. It is clear that there is still work to be done. ■

Audit Dings Portland Police Bureau for Lack of Follow-up Training
Willamette Week online, March 4



Portland City Auditor Mary Hull Caballero says the Portland Police Bureau rightly implements new policies after officers' mistakes grab headlines, but then fails to follow through on some of the changes after the headlines fade.
Hull Caballero's conclusion comes from a report issued Tuesday.
It pinpointed an "initial flurry of activity" after police shootings or other high-profile



Police Review Board Exposes Misconduct and Mixed Disciplinary Decisions (continued from p. 1)

The report also includes two incidents with Officer Homero Reynaga, who vandalized his neighbor's car, didn't notify his supervisor of his arrest, failed to report for duty and consumed alcohol while on probation on December 31, 2013. Reynaga was also investigated by the Bureau for unprofessional behavior (passed out drunk in the back of a taxi) and for violating the same probation a month earlier on December 1. The recommendation he be terminated was made moot when Reynaga resigned. (Another officer flagged for termination—for failing to show up in court and falsifying time sheets—also resigned.)

In one case, use of force was found out of policy—a mixed Bureau/Community complaint in which an officer punched a suspect in the face, knocking a tooth loose, even though another officer had the person in custody. The connected Bureau case involved the same officer continuing a chase after the Sergeant in charge called it off, not using lights or sirens, and ending up having a head-on collision with another cop car. Yet the Review Board only suggested the officer receive a "Letter of Expectation" for these two egregious incidents. Fortunately, the Chief went for 10 hours suspension without pay.

Out of 50 allegations, 34 were found "Sustained" or "Out of Policy." Interestingly, one of those findings was attached to the PIT stop deadly force case, but had to do with a supervisor who failed to adequately communicate during the pursuit. All other allegations in deadly force incidents were found "In Policy."

Spare the Rod, Spoil the File
A New Police Misconduct Report Calls Transparency into Question by Dirk VanderHart

PORTLAND POLICE CRIMES need to be more transparent. The officer who punched a suspect in the face, knocking a tooth loose, even though another officer had the person in custody, was found "Out of Policy." The connected Bureau case involved the same officer continuing a chase after the Sergeant in charge called it off, not using lights or sirens, and ending up having a head-on collision with another cop car. Yet the Review Board only suggested the officer receive a "Letter of Expectation" for these two egregious incidents. Fortunately, the Chief went for 10 hours suspension without pay.

The Portland Mercury covered the PRB's mismatched discipline finding on August 5

LONG-SOUGHT CHANGES TO IPR/CRC INCLUDE:

- give IPR and CRC the ability to compel officer testimony so we can stop putting the word "Independent" in quotes;
- give CRC the ability to hear shootings/deaths appeals;
- change CRC's deferential standard of review so their decisions are based on the preponderance of the evidence instead of deferring to a police supervisor's decision;
- allow misconduct victims/survivors to attend Police Review Board (PRB) hearings;
- allow shooting victims/survivors to appeal findings about appropriateness of police actions; and
- ensure CRC has the ability to request the allegations be re-categorized to better reflect the complaint.

We want to work toward a more fully integrated system where the functions of the CRC and PRB are both performed by the same group of civilians.

These reports are still labelled "Performance Review Board" though that body was absorbed into the current Police Review Board structure in 2010.

Other cases included:

- An officer at a High School football game who inserted him/herself into a fight, restrained one of the participants, and identified as an officer, resulting in 10 hours' suspension without pay.
- An officer who failed to properly investigate a possible robbery received 40 hours suspension without pay.

—Another officer who failed to conduct an investigation into one teen molested by another, blaming the probable crime on "raging hormones," was given 40 hours suspension without pay.

—An officer turned him/herself in for violating a communication order barring cops involved in an incident under investigation from speaking to one another about the case; Chief O'Dea, decided to suspend the officer for 120 hours because he felt the PRB was too lenient in recommending 40 or 80 hours off.

We asked the Public Information Officer and the PRB Coordinator both to send out a news release when the PRB report was posted on the web, which once again did not happen.

Because the PRB's work is done behind closed doors, these reports are the main insight the community has into the discipline process. The 20 or so community members who act as the "pool" to sit on the PRB never hold public meetings and are not called to report to City Council. We hope to see all of these ideas instituted to create a more community-oriented process.

See the July PRB report at <<http://www.portlandoregon.gov/police/article/537952>>. See our full analysis at <<http://www.portlandcopwatch.org/PRBanalysis0715.html>>.



Portland Police Shoot Three, Killing One; Shootings Updates (continued from p. 1)

KGW.com PORTLAND July 13

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Grand jury: Officer justified in shooting stabbing suspect

Max Ben, KGW.com Staff 6:59 pm PDT July 13, 2015

PORTLAND, Ore. — A Portland police officer shot a man who stabbed another officer on July 5, police said.

A Multnomah County grand jury indicted David James Ellis for attempted aggravated murder, assault and unlawful use of a weapon.

The grand jury also determined that the officer was justified in shooting Ellis.

On July 5, officers Jason Stevens and Scott Konczal were working along Northeast Sandy Boulevard when they noticed the suspect, Ellis, trying to break into an office, according to police.

The second shooting occurred in the NE 122nd Winco parking lot on June 28. Allen Bellew, 29, of Lane County Oregon, was questioned by officers along with two associates standing by a car. Bellew allegedly grabbed a starter pistol (makes a bang, doesn't shoot bullets) and Officers Michael Currier (#50676) and Dominic Lovato (#49571) shot and killed him. Currier is one of the 23 cops who said they "liked" the Facebook pages of other PPB cops who said "I am Darren Wilson" last fall (Betsy Hornstein, the cop who kicked and punched Thai Gurule, also "liked" those pages—PPR #65). The Bureau's release was sure to include Bellew's rap sheet, even though it's not clear whether this information was known to the officers at the time. Interestingly, starting with this incident the Bureau began including its policy language on the sanctity of human life in their news releases.

The most recent of the three shootings, in the early morning of July 5, took place near a NE police satellite precinct, where David James Ellis, 55, was allegedly trying to break in. Officers followed him on foot and in a car, and Ellis allegedly moved toward Officer Jose Jimenez (#52792), who backed up, tripped and fell over. Ellis then (according to the cops) stabbed Jimenez in the hand with a knife, which was shown in a police photo to be 6 inches long, even though it only had a 2.5 inch blade. Officer Scott Konczal (#52013) then opened fire and wounded Ellis. PPR readers may recall that almost exactly a year prior, Officer Robert Brown tripped and fell while walking backward from Nick Davis, and ended up shooting and killing the young homeless man (issue #63).

In late April, the officers involved in the March 22 shooting death of Christopher Healy, a homeless man, were cleared by a grand jury, even though witnesses disputed the official story (PPR #65). The Police Review Board, examining the 2014 cases of Kelly Swoboda and Paul Ropp (both PPR #62) declared that all officers followed training and policy in both cases, even though Officer John Romero confronted Swoboda without calling for backup, then shot him. (The PRB report also seems to indicate that an officer who spotted Swoboda's van—but let him go because he failed to notice that the front plate did not match the back one—was given 10 hours suspension for his mistake, even though Romero received no discipline for killing Swoboda including shots to the bottom of his feet.)

The Portland Observer
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Continued in Color/Opinion

Justice for Keaton Otis

Picking up the Baton
Activists keep dead father's pursuit for justice alive

On May 12, the folks who organize monthly vigils for Justice for Keaton Otis held an indoor memorial service to mark 5 years since the young African American man was racially profiled and killed by Portland Police (PPR #51). The event drew about 200 people (Portland Observer, May 20).

On May 25 (Memorial Day), former PPB Officer Dane Reister apparently killed himself by stepping in front of a train in SW Washington. Reister was fired from the Bureau after he loaded live rounds into his less lethal shotgun and fired repeatedly at William Monroe in 2011, causing permanent injuries (PPR #54). Though Reister was indicted on assault charges, this first-ever criminal case for PPB deadly force is now a moot point. We always say everyone has a right to go home safe at night, and do not wish to see anyone lose his/her life. So as not to speak ill of the dead, we will not recount the other cases from Reister's past. However, an internet search on "site:portlandcopwatch.org" and his name will turn them up.

Portland Copwatch has kept a running list of all PPB shootings/deaths in custody since we formed in 1992. We use that list to determine when the Portland Police set new record periods of time without using deadly force. When, in July, PPA President Daryl Turner told a community group about a 1995 shooting he'd been involved in (p. 1), it unearthed some new information. On July 25, 1995, Turner fired one shot at Gregory Michael McClung, 42, missing him but, in the words of the *Oregonian* (July 26, 1995): "The bullet chipped the brick front of The Oregonian Federal Credit Union, 1437 S.W. Broadway." Though McClung allegedly had a gun, he did not fire it and was taken into custody without further incident.

The Bureau's statistics, as released in 2003 after Kendra James was shot, only listed one shooting in 1995. We believe that incident was the December 6 shooting of Timothy Mathers (who was wounded). In other words, McClung's shooting was off everyone's radar until Turner brought it up. This means that our various articles tracking the longest time between shootings over the years have been mistaken. We thought the December 1995 shooting was the longest stretch (351 days) until 2009 when two shootings came 466 days apart. In reality, it was 217 days between the shooting of Ivan Lee Dixon in 1994 and Turner shooting at McClung. This means the Bureau broke its record since 1992 (when we started tracking) back in 2004 between the shootings of James Jahar Perez and Bruce Clark (239 days), which we called the 2nd longest time in PPR #34. We will work on updating our past commentary. ■

State Law Creates Guidelines for Police Body Cameras, Copwatching

This past session the Oregon Legislature passed two statutes: one establishing rules for police body cameras, and the other allowing civilian recordings of police in public places. HB 2571-B requires law enforcement agencies that use video and audio recordings, commonly called cop cams, to establish policies and procedures for the use, storage and retention of these recordings. These policies must include requirements that:

- a recording must be kept for at least 180 days but not more than 30 months if it is not part of an ongoing criminal investigation or a court case;
- a cop cam must be set to record continuously beginning when the officer contacts a person after "develop[ing] reasonable suspicion or probable cause to believe that a crime or violation has occurred, is occurring or will occur." The camera must continue to record until the officer wearing the cop cam has ended his or her contact;
- regarding any contract with a third party vendor for data storage, recordings from the camera are the property of the law enforcement agency, are not owned by the vendor and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the law enforcement agency;
- no facial recognition technology may be used to analyze recordings; and
- the recordings must be used for a legal law enforcement purpose.

This new law makes it difficult to obtain footage, and even so requires all faces to be blurred out so as not to be identifiable. While Portland Copwatch has remained neutral on cop cams, we certainly support the implementation of guidelines that regulate their use. We do however have some serious concerns about this new law:

- There is no discussion of who shall develop local guidelines or that there must be public input on their development; and
- In the effort to protect privacy by blurring faces, too much information may be lost.

We are also concerned that cop cams have not been fully tested and they may result in unexpected consequences for the public (see PPRs #64-65).

The other statute, HB 2704, enshrines in state law the policy established by Portland Police following a lawsuit in 2008 that says capturing officers' conversations in public places does not violate state wiretapping laws. This is a very important bill for anyone who does copwatching. ■

NEWS

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FACEOFF

THE CITY OF PORTLAND WANTS TO PUT BODY CAMERAS ON ITS COPS. GOOD LUCK GETTING TO SEE THE VIDEO.

Willamette Week
April 29

More Oregon Shootings Echo National Focus on Long-time Epidemic

We've been chronicling officer-involved shootings and deaths in custody for the entire state of Oregon over the years, pointing out in two letters to Oregon Attorney General Ellen Rosenblum that these occur at the rate of over 2 per month (PPR #64-65). Recently, major news organizations have taken it upon themselves to track all officer involved shootings in America and found startling data—over 700 deaths by early August. Since March 17, the following 9 incidents beyond those in Portland occurred in our state of about 4 million people (we reported on one other in PPR #65):

—Two incidents we missed in our last issue:

- On March 17, seven Medford police officers shot and killed Andrew Charles Shipley, 49, while he was in mental health crisis and allegedly fired a rifle at officers. Lieutenant Curtis Whipple, Detective Sgt. Ben Lytle, Sgt. Geoff Kirkpatrick, Detective Corey Schwab, and officers R.J. Josephson, James Swanson and Arturo Vega used 62 bullets to kill Shipley (*Medford Mail Tribune*, April 8); and

- On April 6, a Linn County Sheriff's Deputy (unidentified) fired a shot but missed James Lindsay, 68, while responding to a medical call that may have been related to a domestic violence situation in Lebanon (*Oregonian*, April 8).

—On April 24, Salem officers Joshua Edmiston, Vincent Dawson and Sean Bennett shot and killed Mark Hawkins, 49, who allegedly shot at officers from his recreational vehicle in a Walmart parking lot. Eventually the cops tossed tear gas canisters into the vehicle and tore holes in it so they could shoot Hawkins (*Oregonian*, April 25/26& May 9, and *Salem Statesman Journal*, April 25).

—On May 29, Oregon State Police Gregor Smyth and Heather West shot and killed assault suspect Robert Box, 55, near Grants Pass, when he allegedly pointed a gun at them; they fired 11 times (*Medford Mail Tribune*, July 6).

—On May 31, Medford Police Corporal Tom Venables shot and killed James Anthony Morris, 40, firing 15 rounds after Morris supposedly pointed a gun and urged Venables to kill him (*Medford Mail Tribune*, June 24).

—On June 8, Stephen Phillip Burlison, 29, was injured after a Clackamas County Sheriff's deputy Deputy Kevin Bigler shot at him and Burlison crashed his car in Sandy. The June 10 *Oregonian* reports the injury may have been from the crash, not a bullet.

—In McMinnville, Yamhill County Sheriff's Deputy Richard Broyles shot and killed Kevin Judson, 24, after an "altercation" on July 1. Judson, who was African American, was a passenger in a car stopped by another officer. He ran from the vehicle, somehow ending up in the driver's seat of the patrol car when he died (*Oregonian*, July 3).

—Also on July 1, Oregon State Police Trooper Ryan Neuenschwander, Sgt. Brandon Boice, Detective Brent Sitowski, and Detective Sgt. Jeff Fitzgerald and Alcohol, Tobacco and Firearms agents Ken Cooper and Brad Devlin shot and killed Kaleb Landon, 32, a suspect in a murder in California, following a chase on I-5 near Grants Pass (*Medford Mail Tribune*, July 2 & 30).

The six Baltimore officers who bounced Freddie Gray around in the back of their police van in April, leading to Gray's death, were all indicted in May (AP, May 22). The LAPD's oversight committee found misconduct by one of the officers who killed Ezell Ford, an African American man with mental health issues killed in August 2014 (*Oregonian*, June 10). In June, a Cleveland judge accepted a citizen petition asking to indict the officer who shot 12-year-old Tamir Rice last November (*Oregonian/Washington Post*, June 12). And questions are still being asked at PPR press time about the strange death of Black Lives Matter activist Sandy Bland, 28, who supposedly hanged herself in a Texas jail cell using a garbage bag after being arrested for a confrontation during a traffic stop.

(PCW counts all officer involved shootings, since even ones in which nobody was hit was an attempted homicide), lists 711 people as of August 12. Twelve of those are in Oregon, making our state 19th highest of 50 states plus Washington DC for such incidents. ■

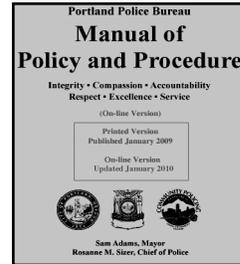


—On July 8, Beaverton Police Officers Jeff Flory, Dan Cotton, and Ryan Potter shot and killed Michael Terence Westrich, 59, when his vandalism to his own trailer escalated and he shot Officer Scott Burke with a shotgun (KGW-TV, July 14).

ALSO: • Four Deschutes County deputies were demoted after inmate Edwin Burl Mays, 31, overdosed in the jail; the deputies were caught on video mocking Mays while he "behaved erratically" in his cell (Associated Press, June 13); and

- Beaverton Police gave awards to the officers who shot and killed Chelsea Fresh last November (PPR #64), angering Fresh's family (*Oregonian*, April 25).

On the national scene, both the *Guardian* (in England) and the *Washington Post* created databases of officer involved shootings in the US. The *Guardian's* searchable database, called "The Counted", which only counts those who were killed



The Bureau's Directives manual was fully posted on line as dozens of individual files in July. Previously a 500+ page booklet was published and updated every two years; the last online version was from 2010.

PPB Makes First Step to Show Changes in Directives

As noted in PPR #65, the Bureau has been posting a number of its general orders ("Directives") on line for public comment each month, prompted by requirements in the US Department of Justice (DOJ) Settlement Agreement. That Agreement gives the DOJ (and by extension, the Community Oversight Advisory Board) 45 days to comment on any proposed Directives, yet the general public still has to read the dense documents and respond in just 30 days. And while the Bureau keeps posting their drafts on line with no indication of what's being changed, when they released the new order on Identification (312.50), it included a new requirement for officers to document when they refuse to identify themselves. The Bureau actually highlighted the particular section which was changed from a previous draft. So who knows, maybe more user-friendly steps are on the way.

Portland Copwatch (PCW) submitted comments in late April, May and June, but skipped the July Directives that mostly centered on emergency disaster response. Since many of the Directives are coming around for a second review, some of our comments—such as those on the Mental Health orders—were repeats of items the Bureau chose to ignore. While encouraging the Bureau to make more aspects of the Police Review Board (PRB—336.00) public, we noted that members of the Citizen Review Committee, who sit in on deadly force and other serious cases, expressed feeling intimidated in a room full of police officers. We made suggestions to improve the language on findings in complaint investigations (335.00; see p. 3), wondered whether the "union" created a clause allowing officers with non-sustained findings to have that information removed from employment documents (332.00), and thanked the Bureau for removing the Chief's ability to review the City Auditor's nominees for the Police Review Board (337.00)—something not envisioned by the Ordinance creating the PRB.

With the Mental Health Directives, we noted that changes to 850.20 (Mental Health Crisis Response) give police some direction to deal with persons in crisis, but are also so broadly written that almost anyone could be considered "in crisis." The degree of discretion given to officers means holding them accountable might be almost impossible.

We also noted that 850.21 (Peace Officer Civil Custody) wisely no longer encourages officers to make an arrest for (continued on p. 8)

Community Police Relations Committee Nearly Suspended

The Community/Police Relations Committee (CPRC) is an ongoing committee of the Portland Human Rights Commission (HRC) and is staffed and funded by the Office of Equity and Human Rights (OEHR). The evidence from the committee's recent and current history point to a very troubled organization. HRC Chair Chabre Vickers dropped a huge challenge to the group as their July meeting was about to wrap up: CPRC was to stop meeting for three months while the HRC consolidates its law enforcement related programs. After an hour of overtime discussion, Vickers agreed to withdraw her proposal so long as CPRC starts producing results instead of just ideas.

Human Rights Commission chair argues Portland's community police relations group has been ineffective



Chabre Vickers, chair of Portland's Human Rights Commission (left), suggested on Wednesday night, July 16, 2015, halting meetings of the ongoing Community/Police Relations Committee for three months, arguing that the committee has been ineffective. (Marianne Berrisford)

By Marlene Berrisford | The Oregonian/OregonLive
Email the author | Follow on Twitter
on July 16, 2015 at 7:59 AM, updated July 16, 2015

After more than an hour of frank discussion between officers and community members about the gaps in data that Portland police collect on officer stops and searches of people in the city, a visitor to the city's Police and Community Relations committee dropped a bombshell Wednesday night: Portland needs to devote attention to

DEPARTMENT OF JUSTICE INQUIRY
Human Rights Commission chair argues Portland's community police relations group has been ineffective

Oregonlive, July 16

CPRC's mandate to coordinate the training of all police on the topic of institutional racism has stalled. They have continued to lose committee members — most recently Damon Turner. Dante James, the director of OEHR, expressed a loss of confidence in their performance (PPR #65). Lack of effective leadership from Sam Sachs, the committee's chair, has contributed to these problems— including his tendering his resignation one meeting and withdrawing that comment at the next. In early July, OEHR announced that HRC (and CPRC) would not get one minute more than the 20 hour a week staffing that is budgeted for their support.

Also at the July meeting, Sgt. Greg Stewart promised more regular, but less informative, stops data because the Bureau hired a new statistician as part of the DOJ Agreement.

This situation is all the more problematic given their mission of "bringing together members of Portland's diverse communities and its police officers to improve community and

police relations" and the fact that this group is referenced in the Agreement between the Dept. of Justice and the City of Portland.

The May meeting was canceled; the June 17 meeting was not well attended—only one of five designated officers (highly unusual) and a few civilian members showed up. Given the committee's mission and the serious issues facing the PPB in recent years, it seems odd that their most engaging discussion had to do with getting police training on how not to be rude to civilians. In August, though they wanted to get work done, they continued to merely talk about getting work done.

Oregon Bans Racial and Other Forms of Profiling

In the interface between Law Enforcement and Racial Justice the news is often frustrating and disheartening. But today, Civil Rights and Human Rights advocates and members of the public attentive to justice issues have reason to celebrate — for a change — the passage of HB 2002 overwhelmingly in the legislature and its signing into law by the governor.

HB 2002 requires, among other things, all Oregon law enforcement agencies by January 2016 to ban profiling and establish procedures for reporting profiling incidents. Under HB 2002 profiling is where an officer targets someone for a suspected violation solely based on a characteristic such as race, age, national origin, sexual orientation, or homelessness. (Including the word "solely" could mean the law's definition is too narrow—see Directives article.)

This law grants Portland State University's Criminal Justice Policy Research Institute \$250,000 to track state data on profiling complaints.

While this is a great step forward, the law doesn't include a statewide mechanism to investigate and adjudicate complaints of profiling. Since Portland is the city with the most robust oversight system and has only found one "disparate treatment" complaint out of policy in 13 years, we wonder what will happen in smaller jurisdictions that rely solely on the police for investigations. ■



Directives Include Hidden Changes

(continued from p. 7)

some (arbitrary) offense if the hold is merely for concern of the person's being a danger to themselves or others.

In May, we wrote that the Racial Profiling Directive (344.05) unfortunately removed the federally recognized definition of profiling. That definition was put in place by Chief Foxworth in the mid-2000s, and focused on police using race rather than behavior. Now the order uses the term "motivated solely by any characteristic of protected classifications." On the bright side, the Bureau added gender identity, familial status, mental illness, economic status, political ideology and more to the race/ethnicity/gender items in the old version.

We applauded the change to 311.30 (Off Duty Responsibilities) telling off duty cops to "defer to or obtain assistance from the appropriate law enforcement agency" in order to avoid confusion and risk of injury. Unfortunately, a new section in the Truthfulness Directive (310.50) defines exceptions for officers to lie, such as when "deception is necessary due to the nature of the assignment, when necessary to acquire information for a criminal investigation or for public safety."

In June, the Directives covering what happens after a Deadly Force incident included 1010.10, which instructs the Bureau to put out information on subjects of deadly force. This information almost always includes a criminal history if there is one, which clearly could bias people trying to evaluate the shooting from an objective viewpoint— especially if the officers did not know that information at the time. All that's required to be released about the officer is their name and length of service, but nothing about their possible past history of violent / deadly encounters with members of the public.

Find the current list of Directives including proposed changes at <www.portlandoregon.gov/police/59757>.



LEGAL BRIEFS:

Oregon Restricts Law Enforcement Access to Info on Phones

Governor Kate Brown has signed into law a bill (SB 641) that prohibits law enforcement from obtaining information from electronic devices without a warrant in most cases. There are two ways police access devices. The officer may physically examine and search the phone/tablet/etc, or the officer may extract data from the device electronically. The new law focuses on electronic extraction and prohibits law enforcement from duplicating or copying the data from a portable electronic device without a warrant or consent. The Tenth Amendment Center notes that the law does not prevent officers from photographing or transcribing information "observable from the portable electronic device by normal unaided human senses" (known as "physical examination").

For years, courts have wrestled with the constitutional analysis of when and how these portable electronic devices can be searched by police. In *Riley v. California*, (2014), the United States Supreme Court held that searching a person's cell phone incident to arrest violates the Constitution, unless the search is authorized by warrant or exigent circumstances. Criminal prosecution using evidence from physical examination cases will likely be tested in court. ■

Portland's Homeless Community: Beset on All Sides

It is difficult enough to not have a place in which to live and keep your belongings, but those who are homeless in Portland suffer additionally by the actions of the City and others who seem to lack humanity. Prior to this spring's Rose Festival, the Portland Police, Clean and Safe and various contractors swept campsites of houseless people and their possessions to "sanitize" the City. Many of those swept up lost their meager belongings and were not able to retrieve them. It is likely that the same thing will be done in advance of the 2016 International Track and Field Championship in Portland next March.

In an amazing display of hypocrisy, the Portland Business Alliance ran full and half page ads in several local newspapers featuring pictures of people sleeping on the street along with the message "We can do better than this." Readers were asked to sign a petition telling Mayor Hales and Portland City Council that "the people of our city want and deserve a better solution." There was a reference to their website (www.pdxcandobetter.com) which indicated the need for more temporary and emergency shelters. "We need to explore additional tools and strategies to provide services to those

in need and enforcement for those who decline to play by the rules." It can only be wondered what that enforcement might be. In an op ed, homeless and disability advocate Jeff Woodward disagreed with the position of the PBA and indicated they had no ideas to fund their suggested programs (OregonLive, July 25). He also stated that with understanding and solution-based plans, perhaps the help for our most vulnerable could become a reality. [In response, the comments coming out of his article consisted of such things as busing the homeless to California, the cops knocking them around a little until they got the message that they were not welcome and that if people didn't have the means to support themselves in 120 days they should be euthanized.]

The PBA convinced the Portland Bureau of Transportation to expand the High Traffic Pedestrian Zones (HTPZs) downtown to preclude people from sitting or lying on the sidewalk in those areas. On January 26, PCW contacted Commissioner Steve Novick, who is in charge of that Bureau, and stated this issue must be subject to a public process. We suggested the advisory body regarding the Sidewalk Management Ordinance which was disbanded in October 2012 be reformed and that statistics regarding the enforcement of the Ordinance be once again made public. Commissioner Novick and his staff ignored PCW until we learned on June 10 that eight additional blocks had been added to the HTPZ with little input and none from those most affected by the Zones. Not wishing to stop there, the PBA is still on a quest to expand the Zones further. In his June 10 email to PCW, Novick staffer Bryan Hockaday indicated further meetings were to be held in late June or July and PCW would be invited. That never happened and there is currently no information available to us regarding the issue.

The Right to Dream Too (R2DToo) rest area remains on NW 4th and Burnside, although the issue of their move is very much alive. In July, the City bought land near SE 3rd and Harrison Streets with tentative plans for R2DToo to move there. Although they couched their concerns in somewhat more politically correct terms than their Pearl District counterparts, several neighborhood associations and the Central Eastside Industrial Council weighed in. The Brooklyn Action Corps "had a spirited discussion and concerns ranged from fear of increased crime, reduction in environmental quality and safety issues for campers close to railroad tracks" (The Bee, July 2015). The CEIC wants to make sure "there are protections in place so if things do not work well in the camp there's some ability to say that it's not allowed there" (Portland Mercury, April 29). Southeast Uplift was concerned "that the time honored neighborhood process Portland's built on has been circumvented" (Mercury, July 15). There have also been environmental issues raised concerning the site and further studies may result. In the meantime Grove Hostel Property LLC sued the City on June 25 for \$237,373, alleging that because the City failed to move R2DToo out of Old Town, plans to convert the Grove Hotel into a hostel fell apart.

Meanwhile, the number of homeless, especially families with children, rises and there is neither sufficient affordable housing nor enough funds for housing. Sweeping those who are houseless from place to place seems to be the current accepted method for dealing with the crisis. As activist Charles Johnson recently testified before City Council, "It is not an accomplishment when a homeless person moves their belongings from 2nd Avenue to 3rd Avenue." ■

A Bigger Broom

As Police Crack Down on Campsites, the Mayor Wants to Double the Cleanup Budget by Dirk VanderHart

PORTLAND COPS say it's time to clean up the Central Eastside. Pointing to rising complaints and an uptick in visible homelessness, the Portland Police Bureau launched a five-week anti-camping effort in early May. The effort includes a weekly sweep of the area and a cleanup of the site. The city's new just-widened bigger broom is also proposing stronger partnerships with social services like local outreach organizations—open as far as to offer people a place to stay.

A Mercury analysis of PPS invoices last year showed cleanup contractors often did little more than sweep Multnomah County streets. Crews pick up trash campers left behind. Billions of dollars are spent on the cleanup effort.

The city's new just-widened bigger broom is also proposing stronger partnerships with social services like local outreach organizations—open as far as to offer people a place to stay.

Portland Mercury, May 27



Portland Police: Exaggerating "Gang" Problems to Garner Community Support?

Much ink is being spilled (as well as many digital pixels) by mainstream media organizations expressing alarm at the supposed Muptick in Portland "gang" activity. The Oregonian has run articles on the "Gang patrol" (July 5) and the so-called "snitch code" (May 24), yet also reported on July 19 there were 20 homicides in Portland in the first 6.5 months of 2015—only one was "gang-related." However, two have been officer involved shootings (the Oregonian only notes one). Bringing some sanity to the discussion, the Portland Mercury ran an article on June 24 analyzing the City's claim there had been "76 gang-related violent crimes" in the year to date. They quote Portland NAACP President JoAnn Hardesty saying the word "gang" is a "catch-all for any shooting where you think the suspect is black."

The Mercury explains while people have the right to appeal being labeled a "gang affiliate" (PPR #9), the police have created a much broader category, "gang-related." This undefined term allowed them to claim a shooting on June 10 had something to do with gangs even when they could not identify a suspect. The City responded by reassigning more officers to be part of the ill-trained "Gang Enforcement Team," while the police "union" is blaming the supposed rise in crime to low staffing levels at the Bureau (see "Rapping Back"). What we've seen over the years, and what's become particularly important with the rise of the Black Lives Matter movement, is that the police will exaggerate the threats to the black community in order to bolster support and quash dissent.

The Mercury also notes that a 2014 Multnomah County report said "law enforcement agencies in the County do not have an accurate method of identifying gang-involved people," and listed groups like the Juggalos—fans of the band Insane Clown Posse. The good news: PPB spokesperson Pete Simpson told the Mercury the Bureau is thinking about changing the language they use, though he fears saying "gun violence" will make people feel the overall crime rate is higher than it actually is. ■

It should be noted, too, that a white alleged gang member was the subject of a police shooting this year, but the bullet missed (PPR #65).

Searching for Gang Signs

Gang Attack Numbers Are Up—But Are They Accurate? By Dirk VanderHart

COPS SAY Portland's gang epidemic is the worst it's been in decades. And that they've got the numbers to prove it. In the last year, the city's Gang Enforcement Team, led by Lt. Michael Kratz, who runs the city's Community Peace Collaborative on Friday, June 19.

If that sounds familiar, it's because the narrative, complete with convenient historical charts, police press releases, and press up every beat. The coverage is no longer limited to the local news outlet, but is also in the national press. More recently, national outlets have looked into high-profile shootings here. "Is Portland's gang problem getting worse?" We asked in March. The Mercury ran, has covered the gang reports of gang-related issues in recent weeks.

This force is potent. Mayor Charlie Hales

Take, for instance, an incident on June 10, when cops say a black man in the 400 block of a home in North Portland. A police press release said related attack number 76.

The word "gang" is a "catch-all for any shooting where you think the suspect is black."

—Jo Ann Hardesty, president of the city's NAACP chapter



Portland Mercury, June 24



RAPPING BACK

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

PPA SEEKS COMMUNITY SUPPORT (continued from back page)

Furthering the new propaganda campaign is a piece from the May *Rap Sheet* by the Associated Press about the funeral for a New York officer who was killed by a suspect in Queens, citing “calls for respect at a time when law enforcement is being deeply scrutinized.” We certainly don’t advocate for violence against the police (or anyone), but relating this incident, and the shooting of two other NYPD officers last December by a troubled young man, to what happened to Eric Garner and Michael Brown leaves out a whole host of analysis about power and social movements. The article cites NYPD commissioner Bill Bratton claiming “What is lost in the shouting and the rhetoric is the context of what we do.” 1000 officers from around the nation attended the funeral, which saw snipers posted on rooftops. The good news, for what it’s worth: The New York Police Benevolent Association president felt the Mayor had showed proper support for the cops, and unlike in December, no officer turned their back on him. Interesting side note: Moore was given a posthumous promotion, which is apparently commonplace in New York, to get the family more money after an officer’s death.

In the May *Rap Sheet*, a notification about National Police Week, which happened in mid-May, notes that 273 names were added to the national memorial wall for officers who died in the line of duty this year; what it fails to note is that only 113 of those names were actually from 2014. Of those, only 51 were results of felony homicides, way up from 27 in 2013, but still less than 50% of all on-duty deaths (*Oregonian/Washington Post* May 31).

Staffing Level Woes

Again playing it as if it’s for the community, not for boosting their membership/political power, the PPA has been on a campaign lately to hire more officers. On June 16, Turner posted a piece to the *Rap Sheet* explaining that they’d filed a grievance against the City because the staffing level is “dangerously low.”

Complaining that a staffing survey commissioned by the Mayor’s office only called to hire five more officers, Turner suggests the PPA would argue for many more hires to investigate crimes and “engage with the community” (there’s that theme again) to keep the cops and the community safe. Low staffing levels, they’ve warned the city, keep them being reactive instead of proactive.

A follow up piece Turner wrote three days later says the Matrix Consulting survey actually asked for 27.5 new positions— five times more than he originally claimed, but far less than the 150 jobs he says they’ve lost since 2001. He adds that the low staffing endangers



TRAINING TIPS CALL FOR REALISTIC STRESS SCENARIOS

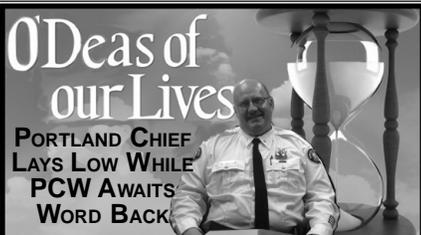
In *PPR #65*, we highlighted Police One author David Blake’s association with the Force Science Institute (for Absolving Cops of Wrongdoing). He tried to explain why cameras don’t really reflect what officers do. In an article reprinted in June’s *Rap Sheet*, he seems to be making a bit more sense talking about High Risk Traffic Stops. He starts with an example of stopping a stolen car and multiple officers showing up, causing pandemonium. Noting this is not how it should be— cars and officers positioned improperly, no less lethal weapons available; multiple people giving commands— Blake blames such chaos on “fight or flight” based stress. Rapid decision making and perceived time constraints lead to diminished critical thinking. Cortisol and other hormones go up. Tunnel vision and narrow hearing kick in. He critiques training in which the cars are already set up in position. He thinks officers at the trainings should be thrown into the scenario stressed out and have to learn to de-escalate, using lights, sirens and radio transmissions for more realism— not a bad idea. He notes that shooting ranges are no longer static (we witnessed this at the PPB’s new training facility, where targets slide left and right and forward and back). The goal, he says, is to get the suspect to come out with their hands on their head, so slow down, reposition and get more help once that’s achieved. Maybe such training would get police to approach situations with more confidence, less fear, and if Blake is to be taken at face value, the goal of de-escalation.

cops serving “very diverse and evolving communities,” residents and “those who come to work and play” in Portland. He claims the low staffing levels causes gang violence to increase (see p. 9). Turner notes that many officers are about to retire, and that in the last five years both calls for service and the population went up, citing an FBI statistic suggesting cities over 250,000 should have 2.7 cops per 1000 residents. However, neither they nor Turner seem to care about the relative crime rate as a factor in that ratio.

Clearly as a support to this drumbeat, the *Rap Sheet* reprinted an AP article from June 23 about the New York police gearing up to hire 1300 more officers— to add to their force of 35,000. (Proportionally, that would be like hiring 37 officers in Portland, not so far off from the recommendation.)

Astonishingly, 300 or nearly a quarter of the NYPD’s new cops are for counterterrorism.

The Portland Police Association does not set policy. However, some PPA leadership, officers, and guest authors express negative attitudes toward citizens and civilian oversight in their newsletter, so we worry these ideas may spread through the rank-and-file. Find the Rap Sheet at <http://pparapsheet.org>



Since taking the reins of the Police Bureau in January, Chief Larry O’Dea has made numerous public appearances, spoken to the media, weighed in on important discipline matters (p. 1) and overseen responses to protests and civilian-involved shootings (p. 9). One thing he hasn’t done is show back up at the Community/Police Relations Committee, on which he was an original member but had to step down upon being promoted; that group has been floundering about for direction for months (p. 8). Another thing he hasn’t done is respond to Portland Copwatch, either to the letter we sent following our February meeting with him (*PPR #65*), the list of good and bad things we observed on May Day (p. 11), or the various recommendations we’ve made about police general orders (p. 7).

In a follow-up letter we sent on July 16, we restated our concerns about crowd control/May Day, police treatment of homeless persons, body cameras and more. The letter gave us an opportunity to let the Chief know that by using the Bureau’s website, we were able to identify the Lieutenant in charge of the Criminal Intelligence Unit— which oversees the officers involved in the Joint Terrorism Task Force— as Jami Resch (#37142). We still have no idea why the Chief refused to name her publicly in light of the Bureau’s claims of transparency and community relationship building.

In regards to the crowd control issue, we noted that in June, U.S. District Judge Emmet G. Sullivan commented on a settlement made for protestors who were subjected to various misconduct by Washington, DC police years ago at a World Bank protest. The settlement “effectively prohibits the ‘trap and detain’ kettling tactic and use of police lines to encircle demonstrations; prohibits mass sweeping arrests [by requiring] probable cause before arrests at free speech activities; and ... for a dispersal order, requires fair notice and warning to demonstrators as well as opportunity to comply with police orders to disperse” (Partnership for Civil Justice Fund, June 23). We hope the Chief will institute such policies here.

If you’re a Portland Copwatch supporter and you think we deserve a response to one or more of our missives, please call the Chief’s office at 503-823-0000 and let him know.

- Enclosed is \$15 to receive one year of the People's Police Report by mail.
 - Enclosed is a sustaining donor pledge of \$15-25.
I understand I will receive the PPR and all other mailings from Copwatch.
 - Enclosed is a donation of \$ _____ to support your continuing work.
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 - I'm donating, but I don't wish to receive mail.
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- Clip and mail this slip back to us at PO Box 42456, Portland, OR 97242.
Make checks payable to: Peace and Justice Works/Portland Copwatch.
Be sure your name, address & (optional) phone number are on this slip.

The People's Police Report is published three times a year by **Portland Copwatch**, a civilian group promoting police accountability through citizen action. Issue #66, September 2015, print date 8/20/15. Portland Copwatch is a project of Peace and Justice Works, a tax-exempt educational organization. Find more information on line at our website: <http://www.portlandcopwatch.org>. **Subscribe to the PPR for \$15 a year**, or to order extra copies or back issues, send \$1.00 per issue to **Portland Copwatch, PO Box 42456, Portland, OR 97242**.

Letters / submissions welcome. Contact us by email: newsletter@portlandcopwatch.org.

For a full list of credits, see the print version of this newsletter.

Web version created 8/20/15.

Call us at (503) 236-3065 or email copwatch@portlandcopwatch.org for more info. Report incidents with the police or Sheriff's deputies to the Copwatch Incident Report Line at (503) 321-5120 or incidentreport@portlandcopwatch.org.

This issue printed with soy-based ink on recycled paper!

CLIP AND SAVE THIS "YOUR RIGHTS AND THE POLICE" CARD

We have cards available in Spanish (below), English, Russian, Serbo-Croatian, Arabic and Vietnamese. If you can translate and/or typeset into other languages, want more copies or can print more copies for us on card stock, contact Portland Copwatch at (503) 236-3065.

Si La Policía Quiere Examinarle,

solo puede tocarle el exterior de su ropa para verificar si usted está llevando una arma. Es preciso decir a la policía que no tiene su consentimiento para una examinación mas completa. Si la policía le dice que tiene mandato para examinarle o arrestarle, pidalo. Si la policía esta examinando su casa o su vehiculo con "causa probable" (un sospecho fuerte) explíquele que no tiene su consentimiento para examinarle.

Si La Policía Le Arresta, no tiene que responder a ninguna pregunta salvo identificarse. No le de excusas o explicaciones. Todo lo que usted dice puede ser utilizado contra Ud. Solo diga "yo quiero hablar con mi abogado" (I want to speak with my lawyer). Si usted no tiene abogado pide a la policía como contactar a un abogado (el estado tiene que proveer un abogado gratis a personas acusadas sin dinero).

Si Ud. Está Observando a La Policía (Copwatching),

tenga cuidado a que la policía sepa que usted no tiene la intención de entrometerse con el arresto. Eso significa quedarse a una distancia mínima de diez pies (tres metros) y no distraer ni a la policía ni al arrestado.

Si Es Víctima de Mala Conducta de La Policía usted debe tratar de obtener los nombres de todos los agentes de policía involucrados, y si posible los nombres de sus superiores. Si hay testigos también es importante obtener sus nombres y números de teléfono.

Si Es Víctima de Fuerza Excesiva de La Policía es importante obtener documentación (pruebas escritas) sobre sus heridas. Hay varios procedimientos que Ud. puede tomar contra la policía, desde hacer una denuncia hasta un litigio, por ejemplo.

Portland Police Attack May Day Marchers with Flash-Bangs, Pepper Spray and Batons

Just about every year since the May Day melee of 2000 (PPR #21), Portland Copwatch has been invited to observe police behavior at the annual workers'/immigrant rights marches in Portland. While often the worst misconduct we observe is missing or obscured name tags (which we saw again), this year the PPB reacted to the crowd deviating from its permitted march route by using various weapons. We witnessed use of pepper spray both against individuals and indiscriminately on crowds, batons, at least one flash-bang grenade



and multiple exploding shotgun rounds whose shell casings were literally labelled "BANG." As noted in PPR #65, the Bureau is reviewing its Crowd Control Directive, and Chief O'Dea told City Council in January that he would consider their comments, those made by the Citizen Review

Committee and testifiers about various issues including use of force.

It seems a combination of that Directive not being finalized or trained on, and the usual problem of the PPB inviting in officers from other agencies helped add to the chaos on May 1. For example, it may be that the officers who fired the "bang" rounds were from the Multnomah County Sheriff's Office. PPB officers sprayed a KGW cameraman from the back of a personnel carrier while they were retreating from the crowd. Had the officers sent the vehicle ahead and walked briskly to catch up with it, there would have been no reason for them to fear the crowd that flowed in behind them on the street. The Deputies (we think) then set off explosive noise devices by launching them over the crowd as a distraction as the carrier drove off, dumping one officer in the street. This is like a magician doing a disappearing act by throwing firecrackers into the audience. Our video shows the people closest to the officers were not posing any threat, and barely reacted to the explosive devices, while one of the officers seemed surprised by the first "bang."

We also witnessed the pepper spraying of a young man on the bridge, who was flipping off officers. They reacted by putting hands on, using a baton to push, and deploying pepper spray.



They also used pepper spray by Pioneer

Courthouse when their new sound vehicle (which broadcasts police commands over an LRAD system, a device created for military use that can be weaponized by focusing ear-splitting sounds in a narrow beam) was surrounded by protestors. A woman got sprayed directly in the mouth, apparently by Sgt. Franz Schoening (#41832).

In our letter to the Chief expressing concern, we noted a few positives, such as the decision not to mobilize the Mounted Patrol, the initial hands-off attitude when the march first deviated from its course, and less videotaping by their Forensics Unit (which we've noted in the past is a violation of ORS 181.575 when there's no suspicion of criminal activity).

Though KGW showed the point-of-view footage of their cameraman being sprayed, they didn't make any complaint about the indiscriminate nature of the pepper spray. The *Oregonian*, for their part, ran an article headlined "Protests interrupt commute," though it did mention the use of force in the opening sentence.

See PCW's letter to Chief O'Dea about May Day at <http://www.portlandcopwatch.org/mayday2015.html>.

RAPPING BACK

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

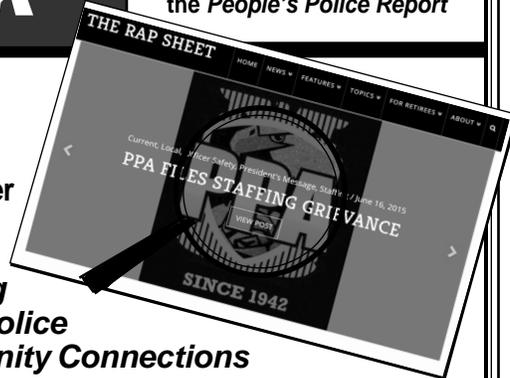
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Fuzz Focus on Feelings to Frame Fellowship After Ferguson

Humanizing the Badge: Police Seek Community Connections

A recurring theme in recent articles run in the *Rap Sheet* is the idea of emphasizing "cops are people too" to break down barriers exposed by the national focus on police racism and violence. Officer Daryl Turner, President of the Portland Police Association, wrote a piece for "American Police Beat" reprinted in July's *Rap Sheet* explaining that the PPA had joined forces with other police "unions" to create a lobbying group to engage with the community in order to build understanding and trust. Oh, and to "speak on legislative affairs." The new group is called "Oregon Coalition of Police & Sheriffs," or ORCOPS. Despite community gains in some areas (see pp. 6 & 8), the police lobbyists gutted a bill that was supposed to invoke a special prosecutor after a police shooting, watered down the racial profiling bill, and made mincemeat of the body cameras law. Turner wrote that the 2500 member supergroup had "success" with the elected officials on other issues, including expanded mental health services and resources for homeless youth. We have no



ORCOPS members include the PPA, Multnomah County Deputy Sheriffs Assn, and the Police Officers Associations of Washington County, Troutdale and the Oregon State Police.

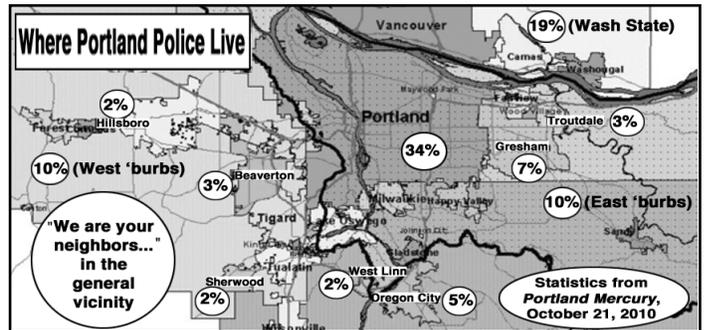
problem with police doing good deeds or advocating for social services in general, but (a) doing good deeds doesn't excuse brutality, corruption and racism and (b) when police make the laws, we live in a police state.*

The June article emphasizes connecting with community in the context of the national "constant and at times divisive" discussion about policing. He says how the police "live in the communities," which is rather funny since only about 1/3 of Portland Police actually live within city limits (*Portland Mercury*, October 21, 2010). "We coach little league. We shop at the same grocery store and pick up our kids from local schools. We're just like everybody else—we're black and white, Hispanic and Asian, male and female, gay and straight." (This last one is a big step forward for the police as an institution.)

A brief piece, also reprinted from *American Police Beat*, features a video called "Dear Officer, I See You," made by the group "Humanizing the Badge." The video's introduction explains most officers aren't in law enforcement for glory or thanks, but it is nice to hear. The video itself talks about people who criticize police as having a misguided sense of justice, and calls the deaths of officers in the line of duty "hate crimes." "Humanizing the Badge" also includes articles by "Mike the Cop" talking about "Cop haters." (continued on p. 10)

* Former cops in the 90-member state legislature include one of Turner's predecessors at the PPA— Jeff Barker, former Gresham Chief Carla Piluso, and former Oregon State Police officer Andy Olson.

[_____]
[_____]
[_____]



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Números útiles:	Una referencia rápida para los residentes de Portland, Oregon.
Independent Police Review Division (IPR) 503-823-0146 Oficina del Alcalde de Portland 503-823-4120 Oficina del Defensor Público (Metro) 503-226-3083 (Multnomah) 503-225-9100	Cuando La Policía Le Para. Quédese tranquilo, con las manos bien visibles. Tenga cuidado con lo que Ud. dice. Si no está conduciendo no es obligatorio que lleve identificación. No tiene que identificarse, pero si se niega a hacerlo la policía puede llevarlo al estación de policía. No le puede arrestar sólo por no tener o llevar identificación.
Para más informaciones: Portland Copwatch PO Box 42456 Portland, Oregon 97242 (503) 236-3065 www.portlandcopwatch.org	Si Usted Está Conduciendo. Tiene que mostrar su permiso (licencia) de conducir, la matrícula (registración) del vehículo y la prueba de aseguranza. Si la policía le sospecha de haber bebido y Ud. se niega a tomar el exámen del aliento le puede suspender el permiso (licencia).