PORTLAND POLICE SHOOT, MISS ONLY ON-DUTY SHOOTING IN 8 MONTHS
Officers Who Killed Man in Mental Health Crisis Given Awards; Anniversaries Remembered

Exactly 200 days after Portland Police shot and killed Michael Johnson outside Good Samaritan Hospital last fall (PPR #68), they were involved in their most recent shooting incident. On May 24, officers shot at, but missed, Timothy James Bucher, 63, during a standoff at a mobile home park. A few days later, the Bureau gave out Police Medals to the officers who killed Johnson, a shameful rewarding of use of deadly force that the community thought would never happen again after 2002. There was also an off-duty shooting by former Chief Larry O’Dea (below).

Bucher had been arguing with his wife and allegedly shot at neighbors’ homes with an assault rifle. Police deployed a Taser, a police dog and tear gas in addition to the gunfire, which they referred to as “cover shots” (Oregonian, May 28). It wasn’t immediately obvious there had been an officer-involved shooting as the PPB’s news release was titled “SERT/CNT Responding to Assist North Precinct Regarding Armed Suspect.” They did not mention that Sgt. James Darby (#32384) and Officer Chad Gradwahl (#35226) fired their weapons.

Gradwahl and his brother Todd were both involved in the incident in which another officer shot Craig Boehler in 2010; Boehler’s house caught on fire—perhaps from police tear gas canisters—and the coroner said although bullets hit Boehler, he died of smoke inhalation (PPR #52). Gradwahl was also involved in the 2005 non-fatal shooting of Marcello Vaida, an 18 year old African American man (PPR #37). (continued on p. 5)

COMMUNITY BOARD, COMPLIANCE OFFICER ASK FOR SEPARATION OVERSEEING POLICE REFORM

In early July, nine members of the Community Oversight Advisory Board (COAB) composed a letter asking that they be allowed to pick a chairperson from among their own ranks. Apparently in response, Compliance Officer/Community Liaison (COCL) Dennis Rosenbaum of Chicago filed a formal petition with the City, asking them to change the terms of Portland’s Settlement Agreement with the US Department of Justice (DOJ) which requires the COCL to chair the Board’s meetings. A series of resignations left the board with just eight members by mid-July, the bare minimum for a quorum. Three meetings were interrupted by frustrated community members, who were escorted out (at two meetings) or arrested (at the third). The May 26, June 23 and August 11 meetings were cancelled, and the July 14 meeting was held in City Council Chambers—a last minute venue change after the COCL proposed having the Board meet in one room with community participating via remote video. On July 28, the Board did not have a quorum, but had time to discuss ways to improve operations. Meanwhile, the COCL generated a new “Outcomes Report” showing the Bureau appears to still be using too much force against people in mental health crisis, which is why the DOJ brought the City to court in the first place.

The mutual so-called “divorce papers,” came shortly after Kathleen Saadat, hired by the Chicago team to administer and chair the COAB, resigned on June 24. At the July 14 meeting, Dr. Rosenbaum’s business partner Dr. Amy Watson turned over duties to the COCL to chair the meeting to a professional facilitator. For the first time since April, the meeting proceeded with no (continued on p. 6)

CHIEF O’DEA STEPS DOWN AFTER SHOOTING FRIEND
New Chief Marshman Pushes Out Top Brass Implicated in Cover-Up

On April 21, Police Chief Larry O’Dea and friends including two former Portland Police Bureau Lieutenants were hunting in Harney County. Late that day, they were sitting on lawn chairs, drinking alcohol and shooting their rifles at ground squirrels when the Chief shot his friend Robert Dempsey, 54, in the back. But as they say, it’s not the crime—it’s the coverup. When a Harney County Sheriff’s Deputy interviewed the men, they said the victim accidentally shot himself. O’Dea took four days to report the incident to Portland’s Mayor, saying he shot his friend by mistake. No action was taken until May 24, after additional details were disclosed in the media, when Mayor Hales finally placed the Chief on paid leave. He resigned in June.

(continued on p. 6)
Cops Show Up, Review Committee hears 2 Appeals While City Plots to Make Hearings Private

Turmoil Mostly Subsides as Ground Rules Set, Work Groups Begin Meeting, New CRC Members Vetted

What most people think of as a “police review board” in Portland, the Citizen Review Committee (CRC), has had a busy year trying to speed up its appeal hearings on misconduct complaints. Despite meeting twice a month, various factors not under their control have led to some appeals not being resolved for about six months each. The City’s response has been to propose that CRC meetings be held behind closed doors, something that does not address the timeliness issue and is opposed by Portland Copwatch and many others in the community. Meanwhile, the police did not have to be escorted under subpoena to the May meeting because acceptable ground rules were devised in late April—rules which eliminated a short-lived effort to push videographers away from the Committee. CRC heard two appeals, both of which are awaiting final outcomes, and rebuked the Bureau’s effort to change their minds on the case of a grabbed video camera (PPR #68). Because of the frantic meeting schedule, CRC’s Work Groups had been on hold from November to late June, when some resumed. Down to just 9 of its authorized 11-member size (with the May resignation of Bridget Donegan), new members will be named to the Committee on August 31.

Major Changes Afoot: Auditor Proposes Taking CRC Hearings Behind Closed Doors

For many years, Portland Copwatch (PCW) has suggested the Police Review Board (PRB), an internal Bureau body which privately reviews cases with proposed “Sustained” findings and force/deadly force cases, be more integrated with the CRC process. The goal is to draw the PRB out from the shadows and allow the public, media, and those harmed by police (/their survivors) the ability to attend hearings. Discussions by a five-month “Focus Group” looking at ways to improve the oversight system (PPR #68) led to a proposal by Auditor Mary Hull Caballero to move CRC hearings under the purview of the PRB, thus cutting out the only transparent part of the discipline process. Public hearings have been part of Portland’s oversight since it was first voted into place in 1982. PCW pointed out that the goal of reorganizing—to meet demands of the US Department of Justice (DOJ) Settlement Agreement saying investigations must be complete in 180 days—will not be met by cutting out the public. On August 1, City Council held a “town hall” at which two dozen people testifying all opposed the move to secret hearings, including current and former CRC members. Two days later, the CRC finalized a scathing letter demanding the Council delay their proposed vote and keep appeal hearings open to the public. The original vote was pushed back a week, but we’re still hoping more people will contact Council, cooler heads prevail, and the 3:45 PM Wednesday September 14 Council hearing will be further postponed.

Previous times the oversight system has been overhauled—in 2000 and 2010—the City appointed stakeholder groups including a representative from PCW to hold public meetings. What appears to be driving the new proposed changes? The minutes of the Focus Group imply the police “union” will file a grievance if a finding is made “due to the number of negative public comments which in turn, influence the Chief’s decision. This particular part of the meeting will need to be changed regardless if CRC and PRB are combined.”

Meanwhile, the Community Oversight Advisory Board (COAB) Accountability Subcommittee came up with a contrasting proposal that gives more transparency to the PRB process and integrates their work with CRC’s in a more public way. That proposal was expected to go before COAB in August, but due to lack of quorum they may not meet (p. 1).

Case #2015-X-0002: Bicyclist with Mental Health Issues Tasered Multiple Times; Bureau Uses Wrong Policy

After the Bureau refused to show up on April 20, the CRC invoked their power to compel the head of Internal Affairs and the officers’ commander to come to their hearing (PPR #68). An April 26 meeting hashing out new guidelines led the Bureau to agree to attend voluntarily. On May 4, CRC finally heard the case of Matt Klug, a man with mental health issues who was zapped by a Taser 5 times after he allegedly smacked a car that came too close to his bicycle in September 2014 (#2015-X-0002). CRC had asked Internal Affairs (IA) to conduct thorough interviews with witnesses other than a security guard whose word IA used as gospel (PPR #67).

The concerns of those witnesses who thought the Taser was unnecessary were dismissed again. Then-Assistant Chief Bob Day thanked CRC for leading the Bureau to realize Officer Bradley Nutting (#45920) shocked Mr. Klug with 50,000 volts for an additional second after the unbridled fishhook barbs were embedded in his skin, but wrote off the extra zap as “accidental” based on the officer’s word. Given the officers’ claim they felt they were engaged in a struggle with an aggressive person—instead of recognizing Klug throwing the contents of his pockets onto the street was probably a sign of mental illness—it was more likely retaliatory. Three uses of the Taser (in “drive stun” mode) are blamed on Nutting’s mishandling the Taser’s trigger.

Examining the Bureau’s Directive on Tasers (#1051.00), CRC found Nutting in policy. Klug objected that they were using a version of the Directive from before the time of the incident, but CRC refused to listen. Both versions instruct police to come up with a new plan if the Taser doesn’t work after the first two uses. Since Nutting used the Taser 5 times (three “drive stuns,” a probe launch/zap and the after-struggle zap), and “arced” the device once in Klug’s face as a “warning,” evidence leans toward finding the officer violated policy. However, CRC voted 7-1 to affirm a finding of “Exonerated with a debriefing,” with Kiosha Ford wanting to sustain the complaint. They also voted 8-0 to affirm Sgt. Tony Passadore (#33482) did not use excessive force against Klug, but asked to add a debrief urging de-escalation. The Bureau accepted that recommendation two weeks later.

After the meeting, PCW sent documentation to the “Independent” Police Review Division (IPR), which houses CRC, showing Klug had the Taser policy from January 2014, not the 2013 version offered by Lt. Mike Frome, the officers’ commander—and wrongly affirmed by the City Attorney. As a result, the finding about Nutting being reconsidered, with a follow up hearing set for September 7.

Case 2016-X-0004: Bureau Accepts Sustained Finding on Officer Interfering with Video Camera

After CRC’s vote in March asking the Bureau to find Officer Scott Groshong (#27445) out of policy for putting his hand up to (and maybe grabbing) Robert West’s video camera, Chief O’Dea rebuffed the recommended finding (case #2016-X-0004). Since O’Dea was under investigation (p. 1), Acting Chief Donna Henderson came to CRC’s June 6 “Conference Hearing” to argue that Groshong’s behavior didn’t rise to the level of violating policy. Acting Chief Henderson said the finding should be the original “Not Sustained” (insufficient evidence), only with a debriefing.

The CRC members weren’t buying it. They said Groshong’s behavior was not professional—whether or not he grabbed West’s camera. Although low-level misconduct can be processed as a non-disciplinary complaint (“Service Improvement Opportunity”),
because this case was fully investigated that was no longer an option. CRC voted 6-0 to send the case to City Council for final disposition. Such a hearing has not happened since 2003 (PPR #30). Days later, Henderson wrote CRC agreeing to “Sustain” the complaint. A similar reversal happened in 2010 after CRC voted to find Officer Ron Frashour (of killing Aaron Campbell fame) out of policy for using a Taser on... a person with a video camera (PPR #51). Then-Chief Rosie Sizer cited not wanting to drag the incident before City Council as a reason for accepting CRC’s finding.

Case #2016-X-0001: “You Must Not Be a Very Good Lawyer” — CRC Finds Discourtesy

After being rescheduled three times, defense attorney Sara Foroshani’s appeal regarding rude and rough cops (#2016-X-0001) was heard on June 21. Foroshani said she saw a woman in a parking lot dragged out of her car by the hair, advised that person of her rights, was told by Officers “A” and “B” she must not be a good lawyer, and was pushed and sworn at by Officer “A” (PPR #68). Foroshani acted out the scene for the Committee. Commander Sara Westbrook explained why she found the force allegations within policy (“Exonerated”), found the other allegations “Not Sustained” and recommended “debriefings” on the officers’ rudeness.

Westbrook said regarding the profanity that Officer A couldn’t remember, Officer B didn’t hear it, and the Appellant wasn’t sure, thus the “Not Sustained” finding. However, a non-police witness said he heard the cop use the “F” word. Nonetheless, CRC affirmed the finding 5-0.

The Commander categorized the put-downs of Foroshani’s lawyering skills as a form of “de-escalation.” Foroshani’s Appeals Process Advisor (APA) TJ Browning wondered how that would work. Westbrook said the officer wasn’t “trying to be unprofessional.” Westbrook added they didn’t believe Foroshani really was an attorney. During public input, Foroshani’s former boss noted her advice not to allow a search of the car was valid, believe Foroshani really was an attorney. During public input, Foroshani’s Appeals Process Advisor noted her advice not to allow a search of the car was valid, believe Foroshani really was an attorney. During public input, Foroshani’s Appeals Process Advisor advised that person of her rights, was told by Officer “A” (PPR #68). Foroshani acted out the scene for the Committee. Commander Sara Westbrook explained why she found the force allegations within policy (“Exonerated”), found the other allegations “Not Sustained” and recommended “debriefings” on the officers’ rudeness.

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In examining whether Officer “A” pushed the lawyer, the Bureau insists he used a minimal “control hold,” cupping her arm lightly at the elbow. Because it was her word against the officer’s, CRC voted 4-1 to change the finding to “Not Sustained with a debriefing.” Chair Kristin Malone felt the Commander’s “Exonerated” decision was reasonable.

CRC had sent this case back for more investigation, asking IPR to talk to the woman in the car. They were unable to interview her. Thus, the allegations about her being pulled out by the hair came down to Foroshani’s word against the officers’, even though one said they asked her to come out with her hands on her head and the other said she “was removed” from the car. CRC voted 5-0 to affirm the “Exonerated” finding despite the conflicting evidence.

Case #2015-X-0004: Officers Kettle Protesters at Demonstration

In January, CRC decided a Commander and Sergeant violated policy when ordering protester Theresa Holloway to be arrested by police at a November 2014 post-Ferguson verdict demonstration in Portland (#2015-X-0004). In February, Chief O’Dea argued against the finding, offering to change the allegations and conduct more investigation (PPR #68). Though the officers “kettle” (boxed in) everyone at the protest—including people on the sidewalk who were presumably not violating any laws—the supplemental investigation also exonerated the commanders on the question of detaining Holloway.

When the case came back to CRC on July 6 for a supplemental hearing, Holloway expressed concern that the IPR’s case file summary had been edited since she received her copy. Director Constantin Severe admitted he changed it that morning, and it was “foolish” to do so. CRC delayed the appeal until August, then voted 6-2 to find the commander out of policy for ordering everyone in the area to be detained (with Malone and Jim Young dissenting).

CRC Work Groups Meet Again; Changes to Public Input and Leadership Structure Detailed

In June, CRC’s Recurring Audit Work Group met for the first time in over a year. Their last efforts, to audit complaints dismissed by IPR to be sure the intake agency was acting properly, was never published once Work Group members allowed their terms to expire. The new Group, headed by Mac Wilson Pfiel, plans to take a fresh look at dismissals, then perhaps move on to investigated cases.

In early July, the Outreach Work Group met, networking with a member of the Training Advisory Council (p. 7). Only one CRC member came to the August meeting.

No word on the Policy and Procedure Work Group, which presumably will (1) follow up on a proposal to spread out the duties of the CRC Chair and Vice Chair, originally billed as an “Executive Committee” until Malone realized that meant holding more public meetings and withdrew her proposal in July (after briefly renaming it the “Chair’s Advisory”); and (2) explain why CRC dropped its proposal to cut out public input before every vote (#5.07). It was probably because community members and former CRC members wrote in to object.

At their August meeting, CRC agreed to let former CRC member David Denecke work with Young to push the Deadly Force Work Group recommendations from May 2015. They also voted to reconstitute the Crowd Control Work Group to look at “kettling.”

To clarify the car allegations, Ms. Browning wanted to cite the testimony, which APAs can access but Appellants cannot. However, she reported IPR is no longer allowing APAs to print out the files for use at the hearings.

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Portland Copwatch attended the 2016 May Day festivities in the South Park Blocks to observe police behavior. Probably because the event was stationary, there were a limited number of officers present and many of the issues from past years (video-ing participants, lack of name tags—PPRs #63 & 66) were not visible. However, we did observe one community member who asked to hand out their business cards. He reported the officers were rude, and said they were conducting reconnaissance, so they didn’t have to give their cards. We followed up by questioning another set of officers if they thought they had to give their business cards upon request as outlined in Directive 312.50.

The policy says the only exceptions for officers giving out a business card upon request by a community member are: (1) it would compromise officer safety; (2) it would impair the performance of duties at a police scene; or (3) a supervisor has relieved the member of the mandate.

It adds that officers are required to document refusals to provide information in a police report.

The second set of officers felt if they were engaged in active police duties they were relieved of the requirement. It’s our understanding that the 2009 changes to the Directive requiring business cards be handed out was to improve community-police relations, and the provision asking officers to document refusals indicates it should be a rare occurrence. On August 15, PCW sent this information to Chief Marshman (the third Chief of the PPB since May Day, with Chief O’Dea on leave/retiring and Chief Henderson promoted/demoted/retired) with a suggestion that the Bureau do refresher training on the Directive. Marshman wrote back the next day promising to address identification in the 2017 in-service training.

PCW urged the Auditor and IPR to expand the annual reports back to reasonable sized documents, include important data (such as 5-year trends), and give a more realistic view of a person’s chances of having their complaint adjudicated with a satisfactory outcome.

PCW also found:

• No specific data were given on (1) the number of force allegations, (2) the number of allegations sustained, (3) how many charges received what kinds of findings, (4) how often mediation and non-disciplinary complaints are used, (5) how many Racial Profiling complaints were filed and what happened to them, (6) how often Internal Affairs declined to investigate cases sent to them by IPR, (7) how many times the police were sued and whether that led to administrative investigations, (8) how many times the Citizen Review Committee (CRC) voted to “Sustain” findings vs. recommending minor changes, (9) the overall length of time investigations are taking compared to the DOJ’s mandated 180 days, or (10) what kinds of misconduct lead to what kinds of discipline.

• While IPR noted again that African Americans file a disproportionate number of complaints (21%), and (in a refreshing new analysis) listed the number of people of color shot by police in the last five years, they failed to note that 17% of people subjected to shootings/deaths in custody (4 of 23) were African American in a city that is 6% black.

• IPR incorrectly states that force complaints were down in 2015; in fact, they went up from 35 to 36 and Use of Force rose back from the 4th most frequent complaint to the #3 slot. PCW also posits, albeit somewhat tongue-in-cheek, that the reason use of force has gone down in Portland is that with gentrification, there are fewer people for the police to beat up any more.

• The report over-emphasizes how deadly force incidents are handled differently from civilian complaints, reminding the community four times that such incidents cannot be appealed to the CRC. That fundamental unfairness needs to be addressed. If the only hold-up is the prohibition on IPR from investigating deadly force cases in the Portland Police Association’s labor contract, that contract must be amended.

• IPR makes note that more Bureau-initiated complaints are sustained than civilian ones. However, they do not include any narratives of Bureau complaints, so it’s difficult to judge the seriousness of those violations—which by definition cannot involve interactions with the community.

• A community member’s chances of having their complaint investigated rose from 1 in 11 (9%) in 2014 to 1 in 6 (17%). It’s likely this is due to the DOJ Agreement limiting how often IPR dismisses force complaints, which went from having 10% investigated to 84%.

• The report does not mention that in mid-2015, Council gave CRC the power to order IPR or IA to conduct further investigation, a power they exercised in a Taser case in October, nor does it mention CRC’s Crowd Control Report that went before City Council in January 2015.

• The outreach section admits that there is still a long way to go to successfully build trust with “immigrants, youth, and community members living with mental health issues,” though arguably communities of color are not necessarily represented by the Chambers of Commerce highlighted as outreach “targets.”

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See the full report at <www.portlandoregon.gov/ipr/article/584457>; PCW’s analysis is at <www.portlandcopwatch.org/iprannual2015analysis.html>.

*IPR relies on the Bureau’s Internal Affairs Division to compel officers to testify, so it is not fully independent.
Darby was one of the officers who piled on Richard “Dickie” Dow in 1998, a man with schizophrenia who died the next day (PPR #16). Darby was one of four officers awarded for his actions in that incident (PPR #19).

District Attorney Rod Underhill agreed to hold a grand jury on the shooting, even though Bucker was not hit; in a few similar cases, his predecessor Michael Schrunk refused to do so. This is a welcome change, as Schrunk’s idea would mean that civilians shoot at each other but don’t hit anybody, no crime has been committed.

It’s also notable the official story says Bucker “told an officer that he wanted officers to fatally shoot him,” which means this is the first time in recent memory someone with a gun who allegedly expressed such a desire to die was not assisted—by Portland Police or Multnomah County Sheriff’s deputies. (Remember, our Medical Examiner labelled the deaths by police officers as a homicide."

**Anniversaries Remembered**

—On May 12, community members gathered for an annual memorial to Keaton Otis, who was shot and killed in a traffic accident in Portland on that date in 2010 (PPR #51).

—Marking the fact that February was 20 years after his son Deontae was shot and killed in 2010 (PPR #16), Darby was one of four officers awarded for his actions in that incident (PPR #19).

If you or someone you know needs help, please contact the Multnomah County Sheriff's Office at 503-798-6511.

**Awards Controversial**

The two officers who shot Johnson were Chad Daul and Russ Corno. Corno has been in officer involved shootings. In June, they were given Police Medals for “placing themselves in harm’s way” despite the fact that years after, after the officers who shot and killed José Mejía Poot in a psychiatric hospital were awarded, the community protested in outrage (PPR #28).

Current Bureau policy requires that nominations for awards be sent to the coordinator of the Police Review Board (PRB) to ensure there are no questions about the officers’ conduct. Since the PRB cleared the cops in this case, it was merely a political decision to award Daul and Corno.

Most recently, Officer John Romero was given an award last year because he was (allegedly) wounded by Kelly Swoboda in 2014 (PPR #62). The 2016 Police Medal was also given to the officers who chased Quintrell Holiman in a 2015 incident which some think ended with Holiman allegedly committing suicide (PPR #65).

**Another Sheriff Hits the Dusty Trail**

Following the footsteps of his disgraced predecessors, Multnomah Sheriff Dan Staton announced on May 8 he would resign on August 16, two years earlier than planned. The position was filled by former Portland Police Chief Mike Reese, whom Staton appointed as his undersheriff in June. An election to permanently fill the position will be held in November, though the County Charter Review Committee recently voted to put forward a ballot measure on whether the position should be elected or appointed.

As noted in PPR #38, Staton became Sheriff after his predecessor, Bob Skipper, was forced to resign when he was unable to pass two required certification tests, with Skipper having taken over for ethically challenged Bernie Giusto. So, the pattern continues.

Staton had been accused of many things, also outlined in our last issue: a $300,000 settlement for a female deputy’s claims of sexism, threats and background checks on members of the Charter Review Committee supporting the appointed Sheriff measure, and other accusations of threats, retaliation and bribery. The final blow seemed to come with the purchase of a car outside established procedures. To say it was “tricked out,” is an understatement. The $33,623 Dodge Charger R/T had a sunroof, satellite radio, leather seats and polished aluminum wheels (Willamette Week, May 18).

The furor caused Staton to transfer the car to a “first responder.”

With all the accusations, lack of support from County Commissioners, and calls by deputies’ unions and newspapers for him to step down, the writing was on the wall and Staton retired. Given the history of Multnomah County Sheriffs, one wonders how Reese will fare. After all, Reese stepped up as Chief the day Keaton Otis, a 25 year old African American man, was killed by 32 police bullets (PPR #51). He exonerated the cops who were killed in 2016 police shootings per month.

**Oregon Maintains Average of Two Police Shootings per Month**

Over the last several months, police around Oregon have continued to discharge firearms toward civilians at the rate of about twice per month. From late April to late July, in addition to the one officer-involved shooting in Portland (with no hits p. 1), the following eight incidents occurred:

- Two incidents involving Gresham police. The first, on April 27, involved 40-year-old David Allen Chariton, who crashed a van and was chased by gang enforcement team officers. Fairview Officer Scott Shropshire, and Gresham Officers Michael Broder and John Heer shot and wounded Chariton in an exchange of gunfire which also wounded Shropshire (Oregonlive, April 29). On May 24, Gresham Officers Gavin Sasser and Kevin Carlson shot and killed Bodhi Wilson, Dean Phelps, 22, after Phelps’ girlfriend allegedly screamed for help from inside a car. Police say Phelps ran away and then confronted police with two knives (Oregonlive, May 25 and 27). Phelps’ girlfriend said his death was unnecessary. Family, friends, and activists organized public protests.
- —On May 31, State Trooper Richard Brannin shot and killed Nicholas Berger, 36, who was holding a woman hostage at knifepoint at the High Desert Museum in Bend (Oregonian, July 8).
- —On May 21, Oregon City Officers David Plummer and David Edwins shot and killed Travis Moore, 38, when he allegedly fought with them as they tried to bring him into custody for failing to appear in court. They also used a Taser on Moore (Oregonlive, May 24).
- —On May 30, four officers in Tualatin shot and killed Robert Wickizer, 70, who was reportedly armed with a gun and attempting to place his children in a neighbor’s home, and two other officers fired “less lethal” shotguns at him (Oregonlive, May 30 and Oregonian, June 8). The four officers were from the Washington County Sheriff’s Office (Sgt. Chris Schweigert) and the Police Departments in Tualatin (Eric French) and Beaverton (Charles Wujcik and Aaron Obers).
- —June 26, Keizer Police Officer Esteban Perez shot and wounded suspect Andy Gibson, 50, during an incident involving a reported robbery in a convenience store (Statesman Journal, June 27).
- —Polk County Deputy Casey Gibson shot and mortally wounded Joshua Bolster, 29, at a July 5 traffic stop in the Salem area at which multiple officers tried to get Bolster to surrender on earlier allegations of trespassing and menacing. An Oregon State Trooper used a “less lethal” weapon after Bolster was wounded; Bolster died of his injuries afterward (KGW-TV, July 12).
- —Members of a multijurisdictional SWAT team shot and wounded Jeffrey Carl Giddings, 45, after he shot and minimally wounded a Gladstone police officer who tried to stop him for a moving violation on his bicycle on August 8 (Associated Press, August 9).

Including the Portland Police incident on May 24, five of the nine incidents happened between May 21 and May 31. With the seven shootings we reported in PPR #68, that’s 16 shootings in the first 7-1/2 months of 2016.
It’s still not clear how far the COAB’s recommendations will go, since the Bureau and DOJ have only responded to a few of the 50+ policy suggestions made since the COAB first met in February 2015. At their April 28 meeting, they unanimously (12-0) passed their second resolution asking the City to remove the “48-hour rule” from the Portland Police Association (PPA) contract. While the Mayor said he was unable to open up bargaining before the contract expires in June 2017, it turned out he was secretly negotiating with the PPA (p. 11).

April 28 was also the first time Saadat moved to exclude a member of the public from a meeting. Citing an arbitrary rule she’d made up relegating anyone video-recording into a small taped off area to the side of the room, Saadat ordered videographer Kif Davis to stop taping, shutting down the meeting and having him escorted out by police. While the COAB asked to discuss and vote on their ground rules (something that worked for the Citizen Review Committee— p. 2), there has been no such discussion to date. However, the video restrictions were lifted for the July 14 meeting, which may have helped de-escalate the tensions.

At the May 12 meeting, the Board planned to discuss the COCL’s semi-annual (formerly quarterly) Compliance Assessment Report and, for the first time in eight months, get reports from its subcommittees. Two community members interrupted the proceedings and Saadat shut the meeting down rather than find a way to ease tensions and move forward.

COAB then held a closed-door meeting on May 26 which, like their retreat (PPR #68), was highly questionable under public meetings law. The City Attorney was on hand, supposedly to keep members talking only about feelings and not COAB business.

By this time, Se-Ah-Dom Edmo, the Human Rights Commission (HRC) appointee, had resigned her seat. Despite the Settlement Agreement’s terms, the HRC refused to pick a replacement, announcing in May they were on hiatus (p. 8). On June 1, Dr. Alisha Moreland Capuia, selected by Mayor Hales, resigned after being appointed to the Portland Development Commission. Soon, Dr. Sharon Meieran, appointed by Commissioner Steve Novick, resigned to run for County Commissioner this fall. Community appointee Ime Kerlee also resigned. When the COAB’s Executive Committee met on June 18, they announced the resignation of former Committee chair Bud Feuless, prompting debate with community attendees about Feuless’ legacy, and an early end to that meeting. After the July 14 meeting, former State Senator Avel Gordly and Rabbi Michael Cahana both resigned, citing personal reasons. This left the COAB with just 8 of its required 15 members. Though the City has the power to appoint 4 of the 7 vacant seats, and the HRC can appoint one (with Feuless’ seat to be filled by the HRC with the Portland Commission on Disabilities), it’s not clear anyone is making moves to keep the Board going. Rosenbaum and Watson suspended efforts to replace Saadat since they do not want to manage the COAB any more.

At the June 9 meeting, City Attorney Ellen Osoinach addressed the Board about setting priorities. Before her part of the meeting ended, several community members interrupted again, leading the City players to call in police to arrest Davis (who went over time giving public testimony) and live-streamer Laura Vanderlyn. The advisory police officers to the Board sat silently. The on-duty cops were generally non-violent, but the use of police to arrest people is itself a violent act. Saadat eventually shut down the June 9 meeting 60 minutes early, even though one of the two hours that elapsed was due to pausing business to deal with interruptions.

Earlier that evening, Rosenbaum responded to feedback on the Compliance report. He told the Board he would not change what they called too-favorable ratings he gave the Bureau, saying they were not specific about why they disagreed. The Agreement’s paragraph 152 requires the COAB to meet twice a year with the Mayor and Chief; such a meeting was supposed to take place on May 26, but between the COAB’s private meeting and the Chief being on leave, it did not occur. There has not been any such meeting for the COAB’s 18 month existence. On June 15, the COCL did change the rating on ¶ 152 to “non-compliance with steps taken” rather than “partial compliance.”

The COCL’s semi-annual Outcomes reports are not required by the Agreement to be shared with the COAB or the public for feedback. PCW put out an analysis of the April report highlighting, among other things:

- 14% of people with mental health issues subjected to force were passively resisting or not resisting;
- Three stories of people in mental health crisis the police manhandled rather than using de-escalation;
- An inadequate review of outcomes of the complaint system, though the COCL does properly report that only 3.1% of allegations made were “Sustained” (see p. 4);
- The Youth Services Division did not review the performance of two officers who used force enough times to trip over thresholds listed in the Employee Information System; and
- The Service Coordination Team went down from a graduation rate of 20% in October to under 16% in May.

On July 6, the COAB Executive Committee met using a conference call, asking members of the public to listen in on speaker-phone at City Hall. It’s unclear what business transpired because separating the Board from the public caused confusion. Though allowed under Oregon Public Meetings law, having a remote meeting of a body representing and taking input from the public was a bad idea. After at least six of the then-10 remaining COAB members publicly stated their opposition to holding the July 14 regular Board meeting with that same set-up, Rosenbaum and Watson wisely agreed to the meeting at City Council chambers.

On July 28, the COCL team used more than their allotted time to update the community on progress since the April Compliance report, handing out a few previously unseen documents. While the team expressed concern that a poll showed 90% of officers do not think the DOJ Agreement will improve the Bureau, they neglected to highlight one of their own document’s findings: that the police continue to believe, for instance, saying “do what I say and I won’t Taser you” is a form of de-escalation.

With all the turmoil, the Oregonian focused a June 17 editorial on the City’s role in making the COAB dysfunctional. The COCL team’s Dr. Watson wrote an op-ed on June 28 blaming “a small group of angry people, some of whom identify as having lived experience of mental illness,” while taking zero responsibility for the problems. Similarly, their “divorce letter” complained about the COAB disrespecting them. One only need to look at behaviors such as the COCL (with support from the DOJ), telling the Board’s Use of Force Subcommittee they could not review the Bureau’s proposed policy on the Special Emergency Reaction Team to see that the problem starts at the top.

In sum, Portland is facing three major problems: a Bureau that’s not taking the Settlement Agreement to heart, an out-of-town COAB who just doesn’t “get it”, and a COAB which is being constrained from doing what the community expects it to do.
Training Advisory Council Makes First Formal Recommendations in Nearly Four Years

The Police Bureau’s Training Advisory Council (TAC) was inaugurated in September, 2012, just as the US Department of Justice (DOJ) was finalizing an Agreement with the City on ways to reduce use of force against persons in mental health crisis. Although this body has been operating for four years, it wasn’t until June 2016 that they finally made their first recommendations to the Bureau. The bulk majority of their ideas address how to deliver training and have little to do with reducing the use of force used against Portlanders, particularly against vulnerable populations. Furthermore, despite having three years’ worth of data on Use of Force which clearly show African Americans, people experiencing houselessness, and people with mental health issues all receive a disproportionate amount of force, the TAC stated in their document that they are unable to analyze the data because there has not been enough time to see trends.

The Council used its May meeting to break into work groups focusing on four areas: Use of Force Summary Reports, Use of Language (“Words Matter”), Coaching Trainers, and Training Evaluation. In July, they (briefly) reviewed the finished proposals. To their credit, the Use of Force section encourages the Bureau to resume publishing data showing demographics of people subjected to force, which Portland Copwatch (PCW) suggested when those data were omitted starting about a year ago. The “Words Matter” section tells the Bureau to change their lesson plans to eliminate the “us vs. them” mentality and language encouraging officers to twist the facts to justify their use of force. While some recommendations do not go far enough (PCW noted some language changes were the equivalent of calling a person a “donkey” instead of a “jackass”), they did ask that official training documents stop using the analogies of the public as sheep/police as sheepdogs, and the term “warrior mentality.” PCW has seen these terms in the Portland Police Association newsletter, but did not realize they were part of PBP training as well. It also came out that until the Use of Language group delved into the files, the TAC never had full access to Training Division documents, and that the Community Oversight Advisory Board (COAB) appears to have received more such documents than the Council. Having signed confidentiality forms, TAC members had been asked to examine documents at the Bureau and leave their notes behind.

The TAC’s Evaluation section expresses concern that other advisory bodies are making recommendations about Training which are not “best practices,” suggesting all proposals about Training be channeled through them. They did not specify to what groups—or proposals—they were referring. It makes sense for the groups to talk to one another, but not for the TAC— which, unlike the COAB, the Citizen Review Committee, and the Community/Police Relations Committee is selected only by the police—to act as a gatekeeper on this issue.

It should also be noted that some of the TAC members are professionals in the learning field, so some of the recommendations are full of technical jargon such as “ancillary training materials,” “visualizations,” and “learning product examples of Toolbox Talkcards.”

Also, the section on Coaching Trainers contains one of the best— and clearest— recommendations in the report, suggesting their work should benefit the PPB by “designing courses that address the balanced concerns of the Bureau and the community.”


There’s No Carpet Under Which to Sweep Homeless People

Just weeks before the scheduled Hood to Coast Race in late August, the Portland Police, at the request of the Mayor, planned to conduct sweeps along the 21-mile Springwater corridor starting August 1. This corridor, under the purview of the Bureau of Parks and Recreation, runs through Portland, Milwaukie and Gresham. According to the Oregonian (June 16) the Mayor asked the police to first focus on the corridor in the Lents and Brentwood-Darlington neighborhoods where an estimated 250 homeless people were camping. After pushback from advocates including the Oregon Law Center, which has successfully won lawsuits around the anti-camping ordinance (PPR #57), the Mayor delayed the “clean-up” until September 1.

A policy allowing camping on City property, specifying it should not be on park land or in groups of more than six people (PPR#68), was revoked by the Mayor in early August. National organizations which had looked to Portland’s “Safe Sleep” policy as a model began rethinking their praise.

Springwater campers say they received warnings and some sweeps occurred as early as May (Oregonian, July 15). Some people returned and more moved in. According to the July 13 Willamette Week, the Springwater trail is home to about 500 people, with most living in the two mile area between SE 82nd and 111th Avenues. They estimate it is perhaps the largest homeless encampment in the country.

In response to complaints from neighbors and businesses and concerns about protecting nature, the police will move out people camping there. Businesses with which the city contracts will pick up items left behind. Many campers will lose their belongings. In the past, homeless people who have been displaced have lost medications, IDs, tents, sleeping bags and other gear. The Mayor asked social services to provide resources for the campers before the sweeps begin, but there are not enough shelter beds for homeless people in the area. Women, women with children, couples, and people with pets face barriers to finding beds. There have been efforts to open places to meet demand. The Peace Shelter added 180 beds for women and couples to their existing 80 beds for men, but that shelter closed recently (Portland Mercury, August 10).

Despite the relaxed rules on camping, Pacific Patrol Association, private contractors hired by the City swept 21 camps per month during the 5 month test period—only a few less than the 25/month in the prior 7 months (Portland Mercury, August 10).

Because of the relaxed rules on camping, Pacific Patrol Association, private contractors hired by the City swept 21 camps per month during the 5 month test period—only a few less than the 25/month in the prior 7 months (Portland Mercury, August 10).
Although it’s not 100% clear how many of the people targeted by the Portland Police Bureau (PPB)’s “Operation Safe Spring,” were African Americans, it would not be surprising if the Bureau that refers to “black-style gangs” (PPR #61) disproportionately targeted black people. The crackdown, which took place over two weeks in April, supposedly focused on the “worst of the worst: people whose names kept coming back up in attempted murder, assault, and firearms charges” (Oregonian, April 8 and May 7). Interestingly, days after “Safe Spring” was over, Portland Police arrested six members of a white motorcycle “Club” on suspicion of murder (Portland Mercury, May 4). Though the PPB calls the Gypsy Jokers a “gang,” the arrests were not considered part of the gang crackdown.

A white man was also the source of violence at a July 7 Portland rally and march against the shootings of African American men by police in Louisiana and Minnesota. Despite a turnout of hundreds of protesters dedicated to a peaceful demonstration, Michael Strickland of the YouTube channel “Laughing at Liberals” pulled a gun on activists, claiming he felt threatened. Strickland was arrested, released, but then re-incarcerated on serious weapons charges. This happened at almost the same time a black Afghanistan war veteran shot and killed police officers during a Black Lives Matter protest in Dallas, with the gunman in that case being blown up by a police-operated remote-control bomb robot. Maybe Strickland was unharmed because he didn’t fire his weapon — or maybe his skin color led to his disparate treatment. (PCW does not encourage violence against anyone, and PPB’s taking Strickland into custody without shooting him is to be commended — it’s just notably unusual.)

Meanwhile, in early August the PPB quietly posted new data on traffic stops. The 2015 annual report shows once again African Americans are over-represented in stops (13%), while they are searched more often and turn up less contraband (85% as much as whites). The report glosses over the fact that African Americans represent 64% of stops by the “Gang Enforcement Team.”

At the state level, there is a new development in the case of Oregon civil rights head Erious Johnson, whose Twitter account was spied on by other members of the Oregon Department of Justice when he used the hashtag #BlackLivesMatter (PPR #67). Johnson’s lawyer filed a bar complaint alleging “the monitoring of Johnson’s tweets probably broke state and federal laws prohibiting the gathering of information about a person’s political activity without probable cause that a crime had been committed” (Willamette Week, May 18).

Also statewide, the committee reviewing the implementation of HB 2002, the 2015 law criminalizing police profiling on the basis of race, gender identity, and a number of other characteristics, is looking at ways to strengthen the existing law in the 2017 session. Community members who attended state police training on diversity report there was no focus on profiling.

In Portland, the Human Rights Commission put out a news release on May 4 announcing they were taking two or three months off to “reorganize.” This resulted in the suspension, once again, of Community/Police Relations Committee meetings, which already had not occurred between September and March (PPR #68). The HRC, however, has stated they will not meet again until September, meaning their hiatus will be four months long.

**POLICE POLICY REVIEW SLOWS TO A CRAWL, EXAMINING “ANIMAL PROBLEMS”**

Since April, the Portland Police Bureau (PPB) has only sent out one set of Directives for public review, despite their previous practice of asking for input on a monthly basis. The eight policies posted in June included a number that were mostly internally focused. Portland Copwatch (PCW) emphasized its commentary on two: Directives 631.70 about animals and 313.70 about “associations.”

The first, titled “Investigation of Animal Problems,” has instructions on “Destruction of dangerous and/or destructive animals.” This heading and subsections refer to the act of killing animals, considered by many to be family members, as “destroying” the animal, as if it were an inanimate object. We suggested more appropriate language. Furthermore, the caution to “exhaust all other practical means of containing or capturing the animal” appears after the list of reasons it would be acceptable to kill a family pet/companion using a firearm; if the order were reversed it would emphasize de-escalation.

Options could be offered such as retreat, containment, or allowing an animal’s owner who’s not posing a threat to officers to calm the animal down. The Directive also requires an After Action Report to be written, but doesn’t specify that supervisors should be called to the scene of an animal being shot, as they would with any other police use of force, nor does it direct them to forward the Report to Internal Affairs.

The second Directive, whose official title is “General Conduct—Associations,” talks about how important it is for the police to “build trust” and thus should not engage in continuous associations with persons who are subject to felony investigations or convicted of felonies within 5 years. What’s not addressed is how some officers continually contact people in such situations as a form of harassment, when the people have already served their jail time and are trying to avoid contact with police so they can get their life back on track. The policy also implies that associating with such persons is less odious if it is for a “family or social relationship” and a supervisor approves the officer mingling with the person in question. We suggested that if an officer has any reason to connect with such a person, the Bureau should list criteria the supervisor might use to judge the nature of the relationship.

PCW made only minor comments on Directives on unpublished phone numbers, maintenance of Bureau facilities, files, and “Custodial Interference,” declining to comment on 640.32 “Abandoned Baby Procedures” and 060.40 “Personnel Orders.” We suggested the Bureau release a proposed final draft before implementing any policies to give the community one more chance to set them on the right path. In total, the Bureau has put up 112 Directives for review and Portland Copwatch has commented on 86 of those. We still have not received direct feedback on any of our comments.
On June 21, the Oregonian reported that language in the draft contract between the city and the police “union” would allow Portland officers to review video recordings from body cameras of another officer’s use of deadly force before writing reports or being interviewed. Three days later, the Oregonian wrote a scathing editorial about this practice entitled “Draft body cam policy places union’s concerns over public’s.” This editorial notes police accountability experts contend allowing an officer to review the recording before an interview or writing a report may hurt the quality of an investigation into officer conduct. This editorial referenced the case of 16 year old Thai Gurule, who police kicked, punched and tasered in 2014 (PPR #65). The police maintained Gurule attacked officers, but non-police video footage contradicted the officers’ reports. If the cops had viewed the recording first, it might have changed their testimony to fit the tape. The editorial calls for the public to weigh in on this policy.

We agree with the Oregonian editorial. Portland Copwatch (PCW) has remained neutral on the issue of body cameras in part because we believe the City must present its proposed body camera policies to the public for meaningful review and input. The Police Bureau did hold a series of public meetings on the issue, but they were poorly attended and many people were not well versed regarding body cameras (PPR #67). PCW recommends the City develop best practice protocols with input from organizations such as the ACLU and other cities. The City must hold a public discussion and vote on policies regarding who can see the recordings and when, how are these data saved, when they can be turned off, among other things. Until then, the issue of body cameras should be put on hold.

Additionally, we wonder why the Police Association gets to weigh in on issues of city policy, negotiating behind closed doors without public scrutiny (p. 11).

On June 27, Captain Mike Marshman, the Compliance Coordinator for implementing the US Dept. of Justice Agreement, was appointed Chief. Mayor-elect Ted Wheeler expressed support, but plans a national search when he takes office. Marshman demoted Acting Chief Donna Henderson and three assistant chiefs, who face investigations into why they didn’t start an internal inquiry when O’Dea told them about the shooting.

Marshman appointed former North Precinct commander Chris Uehara, former Transit Division Capt. Mike Leloiff, and Capt. Matt Wagenknecht, who supported the pepper-spraying of a homeless man in 2014 (PPR #63), as the new Assistant Chiefs. He eliminated the fourth position, formerly held by Kevin Modica, the highest-ranking African American in the Bureau, saying community-related police functions should be integral to the whole organization. Henderson retired rather than be demoted, and is now “double dipping” with a new job as the city’s liquor license coordinator (Oregonlive, July 20). Capt. Derek Rodrigues, who led Internal Affairs, was also reassigned because he failed to open an administrative investigation on O’Dea or alert the the Independent Police Review.

Every officer who previously was involved in an off-duty shooting was put on administrative leave—Sgt. Greg Stewart, who killed a man at his Scappoose home in 2007 (PPR #43), Officer John Kuechler, who shot and wounded Travis Hunt at a football game in 1998 (PPR #16), and even Officer John Hurman when he killed George the dog while jogging in 1997 (PPR #13).

O’Dea’s action of covering up the incident demonstrates (again) the corrupt culture of the police. It seems there are only consequences once officers are caught lying—use of force and other misconduct notwithstanding. Many in the community (including Portland Copwatch [PCW]) are deeply concerned that Chief Marshman admitted, days after being promoted, he was involved in a domestic violence incident in which he harmed his stepson, but was not prosecuted due to an expired statute of limitations. The only bright side is that Marshman was up front about the incident and released his personnel file, unlike Chief O’Dea, who clammed up after PCW asked him about the 1988 shooting he was involved in (PPR #64).
shelter people from danger, and make split second decisions. As such, he says the officers should not be "excoriated for making "reasonable decisions." That's fair, but let's focus on the issue of "reasonable." Aitchison is referring to the Graham v. Connor court decision that says one must see deadly force from the perspective of a "reasonable" officer and not with 20/20 hindsight. It doesn't address community standards, the context of racial profiling, or, other than the "totality of the circumstances," whether the person is actually threatening the officer with a weapon. Aitchison talks about good deeds done by officers including giving shoes to homeless people and getting domestic violence survivors into shelters, because it's the "right thing to do." He says officers don’t see in black and white, but understand the nuances of our society. In that case, they should be embracing the message of the Black Lives Matter movement, and holding accountable the officers who use excessive and deadly force disproportionately and inappropriately on African Americans in this country.

But instead, Aitchison uses tired tropes, which an attorney urging nuance should avoid. He says no officer wants to use firearms but does so because there is "no other choice," even though that's usually not the case. He recalls one Portland officer who went in his arms after using deadly force to "protect a citizen from certain death." He wrongly asserts that he now goes to as many Portland Police shooting scenes in four years as he used to in one year; to be true, the PPB would have had to shoot 16-20 people per year, a rate we have no record of ever existing (the average number of shootings/deaths is 4.5 per year since 2010).

Aitchison then lists ways policing has changed over the years, decrying the instant judgments being made based on "3 seconds of video," how impressions have become more important than facts, and how officers are scrutinized for discipline, prosecution, civil lawsuits and the "tilted lens of the media." He says these new realities are why it's so hard to recruit new officers. His proposed solution to the divisions growing in America is for the police and community to sit and talk—not for the police to admit fault or consider new ideas, but rather that they need to explain what they do.

In one of the few outside opinion pieces posted by the PPA, Melissa Littles of "The Police Wife Life" blog offers a sarcastic apology to other members of the community (Rap Sheet, April 25). Littles' husband, apparently an African American police officer, is a "better person than me," she says, because he is willing to stand in front of a bullet for you (community members), but "I wonder if you're worth it." She apologizes for feeling "jealous and resentful" but "you have made it hard to keep caring about you." She reports seeing "bricks and rocks and trashcans ablaze being hurled at officers... and wishing you ill will," then asserts that she is a Christian. Littles asks whether her husband might get less flack "because his skin is black" or whether he would be considered a "traitor," apologizing to other officers' wives thinking his race is an advantage. (Mind you, this was all written before Dallas and Baton Rouge.) Decrying a public that increasingly "hates" police, she says seeing her husband alive is more important than him "dying for you." But let's get this straight: demanding accountability is not "hateful," and most people in the movement believe everyone gets to go home at night. Can't we start by agreeing on those two points?

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LEGAL BRIEFS:

**Fruit of Poisoned Tree OK’d by Supremes**

In Utah v. Strieff, the Supreme Court decided in a 5 to 3 decision that officers who find evidence during an "illegal" stop can use that evidence in court "if the officers conducted their searches after learning that the defendants had outstanding arrest warrants" (New York Times, June 20). Joseph Strieff was stopped by a police officer with no probable cause, but the officer who stopped him discovered a warrant for an unpaid parking ticket. This deeply disturbing decision means the police can stop you for no reason and then use anything they find upon searching you against you if you have outstanding warrants. Moreover, the police can stop you without cause to check if you have outstanding warrants.

Justice Sonia Sotomayor wrote a “scathing” (The Nation, June 20) and “fiery” (New York Times, June 20) dissent. She said “The Court today holds that the discovery of a warrant for an unpaid parking ticket will forgive a police officer’s violation of your Fourth Amendment rights.” She went on to say “it is no secret that people of color are disproportionate victims of this type of scrutiny.” Justices Ruth Bader Ginsburg and Elena Kagan joined in her dissent.

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. We worry these ideas may spread through the rank-and-file.

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**MISMatched Statistics:**

In a June 13 Facebook post, the PPA unveiled a fancy infographic showing 2012-2016 trends in Portland's crime (up 19%), police staffing levels (down 15%—1,039 to 884), car theft (up 19%) and "gang" shootings (it lists 68 in 2016 with no comparative data, and doesn’t explain how it’s proven a "gang" was involved). Then it asserts that calls for service are up and self-initiated calls are down. A second post on June 22 shows the raw data for these two categories. The chart shows dispatched calls up from 62,137 to 77,604, which is a 24% increase—but the infographic says such calls are up by 36% (meaning they added an extra 50% to the increase). The second chart shows self-initiated calls down from 54,109 to 37,351, a drop of 31%, far less than the "over 50%" asserted by the infographic.

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**Appeals Court Deliver Blow to Phone-Privacy Advocates**

The May 31, the Intercept reported that the 4th Circuit Court of Appeals in Virginia upheld what is known as the “third-party doctrine.” This legal theory says if a consumer shares information with a third party, she gives up her right to privacy because she doesn’t have an expectation of privacy. This means police do not need a warrant to ask a company for cellphone records to track location data in an investigation. Circuit courts do not consider this a search under the Fourth Amendment due to the “third party” theory. Though similar decisions have been made in the 5th, 6th, and 11th Circuits, experts told the Intercept they believe the issue will have to be considered by the Supreme Court due to rapid changes in the digital age.

**Louisiana: Blue Lives Really Matter**

It’s a first. National Public Radio reported on May 24 that the Louisiana Legislature expanded hate-crime laws to include protections for police and other first responders. So now police, firefighters and medical crews are added to the protected classes of race, age, gender, religion, color, creed, disability, sexual orientation, national origin, ancestry and organizational affiliation. This will allow prosecutors to ask for harsher penalties for crimes in which first responders are intentionally targeted. Since being a police officer is a job, not a belief or an immutable characteristic, many hope this law will be overturned. Similar “Blue Lives Matter” laws are being proposed at the state and national level.
On May 18, the Oregonian broke news that was equally as encouraging as alarming, and just plain wrong. Mayor Charlie Hales, who did not run for another term and thus will leave office in January, began negotiations with the Portland Police Association (PPA) on their contract that expires in June 2017. Although Hales apparently pushed hard to get the PPA to agree to drop the offensive “48-hour rule,” which allows officers two days before being compelled to testify in misconduct investigations, the Oregonian reported this was being done in exchange for promises of more money. A few days later the O’s editorial board correctly opined “Eliminate 48-hour rule for public gain, not political.” Hales was trying to justify an increase in business taxes (which the Oregonian opposes, but Portland Copwatch [PCW] does not necessarily) by saying it would raise $3 million toward the eventual $6-9 million needed to meet obligations of the secret PPA negotiations. PCW would add that if the PPA seriously believes science proves an officer needs two days of rest for their memories to be useful for investigators (as they told the Community Oversight Advisory Board last year—PPR #66), apparently science can be over-ridden by bags of cash.

On June 15, the Oregonian further added that the promised new money would lead the PPA to “agree to a body camera policy and withdraw 11 outstanding grievances.” The guidelines on police body cameras were put out for public input, meaning the Police Bureau recognizes this is a matter of public policy and not a bargainable workers’ issue (save, perhaps, officers’ needing to conduct private business on work breaks without being recorded). Instead, the Oregonian revealed (on June 21) the Mayor planned to allow officers to review video footage before being interviewed in misconduct investigations (also see p. 8).

Incoming Mayor Ted Wheeler should be part of any discussions about the parameters of the PPA’s contract. Both he and Mayor Hales should be pulling out other public policy provisions that have no place in a collective bargaining agreement, including restrictions on a civilian oversight body investigating deadly force cases and that body’s ability to compel officer testimony.

The PPA also had a heavy hand in a proposal scheduled on the City Council’s “consent agenda” in June, meaning it was to be voted on with no public discussion. The plan was to authorize the police chief to approve off-duty officer hiring for up to $100,000 in contracts. Supporting documentation stated “the police secondary employment agreement will have the net result of increasing the availability of regular patrol officers by minimizing the need for patrol units to respond to calls generated by private business events.” This logic is flawed on many levels—not only does it presume officers would be called to these events, but it ignores the arguments put forward by the PPA about how “thin” the rank-and-file are spread. If they are too exhausted to perform their regular duties, why approve vast amounts of off-duty work that will impact their ability to do their day jobs? Furthermore, about 10 years ago under Chief Sizer, the PPB put in place rules about such off-duty hiring, requiring the contract to serve some kind of public interest (Directive 210.70)—in other words, just being hired for extra store security was no longer to be tolerated.

The Portland Oregonian’s May 22 editorial board correctly opined that Mayor Hales and the PPA should be negotiating toward peace and justice works/Portland Copwatch. Opposes, but Portland Copwatch PCW does not necessarily agree to a body camera policy and withdraw 11 outstanding grievances. The guidelines on police body cameras were put out for public input, meaning the Police Bureau recognizes this is a matter of public policy and not a bargainable workers’ issue. Instead, the Oregonian revealed (on June 21) the Mayor planned to allow officers to review video footage before being interviewed in misconduct investigations. In coming Mayor Ted Wheeler should be part of any discussions about the parameters of the PPA’s contract. Both he and Mayor Hales should be pulling out other public policy provisions that have no place in a collective bargaining agreement, including restrictions on a civilian oversight body investigating deadly force cases and that body’s ability to compel officer testimony.

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The nagging sense one gets from examining the 14 recent posts to the Portland Police Association (PPA)’s newsletter site the Rap Sheet, and the 75 posts to their Facebook page, is that there’s a growing symbiotic relationship between corporations and the police. In PPR #68, we ran a piece about how the Portland Business Alliance’s Citizen Crime Commission used the PPB training facility for a “fun-filled” fundraiser. In articles posted from late April to mid-August, 7 Rap Sheet articles and 9 Facebook listings were either outright/mildly disguised advertisements for the companies supporting the PPA’s golf fundraiser or revealed more police-corporate ties.

The example which had the greatest impact came in the May Rap Sheet, where the head of the National Law Enforcement Officers Memorial (Foundation) Craig Floyd gushed about Memorializing Officers Who Died by Trivializing the Communities They Serve and Protect. Following the horrifying killings of police officers in Dallas and Baton Rouge (by two individuals trained by the US military, it should be noted), at least 21 Facebook posts and one Rap Sheet article were dedicated to follow up on the incidents. The Rap Sheet piece, posted on July 10, included the talks given by PPA President Daryl Turner and the Association’s former attorney Will Aitchison at a memorial in Portland that day. Turner borrowed heavily from his own talk on Police Memorial Week (May 10), referring to how officers made the "ultimate sacrifice" to protect people regardless of "race, creed, color, religion, or sexual orientation" (actually, he added "gender" in the July speech). In both talks he spoke about how officers choose "resolve" over "irrationality" and "dignity" over "depravity." After Dallas, he added that the outpouring of support for police in the wake of the shooting is "turning the tide. The tide of anti-police sentiment, the tide of the us and them mentality, and the tide of distrust."

For his part, Aitchison expressed that in his 37 years working with police he realized how difficult their jobs are, as the community expects them to enforce laws, be mental health counselors, and media monopolists Clear Channel/iHeart Media using their titanic industry to pay tribute to officers who died in the line of duty. Though just 123 died in 2015, the "multiplatform media tribute" included 252 names, presumably some dating back to 1791 when the list begins. Clear Channel was able to put information about the officers on over 1000 digital billboards and bus shelters, Public Service Announcements on 850 radio stations, and a moment of silence for two minutes as part of the media blitz. There’s no mention of differentiating those officers who died in car crashes or other such incidents (the majority) from those who were killed by civilians, and certainly nobody’s holding their breath for a Clear Channel campaign with images of the countless African Americans gunned down by the police.

On July 1, the PPA cross-posted an ad for the “Badges and Ladders” event at the new minor league Portland Pickles baseball game. They announce that there will be "Fun!" in the form of the Mounted Patrol, K-9 Unit, motorcycles and squad cars. We continue to object to the horses and dogs that attack community members being trotted out as "fun" and "family-friendly" icons of a system that uses violence to put down its citizenry.

Rather than name names, suffice it to say that the various companies who support the PPA’s golf tournament, particularly those who appear to be in the major sponsor categories, received their own posts, with logos and service descriptions, on the Rap Sheet site, the Facebook page, or both. The one supporter worth mentioning is Portland Patrol, Inc, the notorious security firm which is headed and mostly staffed by retired Portland Police, and which, as they put it, “are the Safe in the downtown Clean & Safe program” (i.e. they can harass homeless people even when the Mayor orders the PPB to stand down).