



Disparate Treatment Complaints

A Complaint Handling and Case File Review
Conducted by the Bias-based Policing Workgroup
of the Citizen Review Committee

March 2010

Background

Community concerns about racial (and other) biases influencing police work are neither new nor unique to the City of Portland. Recent efforts to address these concerns by the Portland Police Bureau (PPB or Bureau), Mayor's Office, and numerous community groups have included the Blue Ribbon Panel, the Community Listening Sessions, and the Racial Profiling Committee. A consistent theme reported by these various committees is a lack of trust between the Bureau and minority communities. These committees have primarily been informed by Bureau data (e.g., racial disparity in stop data) and/or focus-group style discussions.

Complaint Data

Citizen-generated complaint files at the Independent Police Review Division (IPR) represent a separate and unique source of information about complainants' perceptions of disparate treatment in policing. There were a total of 104 complaints received with an allegation of disparate treatment during the two-year period from July 1, 2005 to June 30, 2007. By definition, these are allegations of specific actions or statements that indicate inappropriate treatment of an individual that is different from the treatment of another because of race, sex, age, national origin, sexual orientation, economic status, political or religious beliefs, mental or physical disability, etc. As several cases include multiple allegations, those 104 cases represented 143 total allegations. Allegations of disparate treatment account for approximately 5% of total complaint allegations annually. Roughly three-quarters of the alleged discrimination involved race or ethnicity. The other quarter alleged potential bias based on other characteristics such as gender, age, or sexual orientation.

IPR dismissed approximately half of the disparate treatment complaints during the two-year time period. The Bureau's Internal Affairs Division (IAD) declined about another fourth of the complaints. Of the remaining cases, 16% were handled as service complaints and 8% advanced to a full IAD disciplinary investigation. More recent case-handling data suggest that these proportions have shifted away from dismissals and declines. IPR and IAD combined to dismiss or decline just under 60% of the disparate treatment complaints received in 2008 and 2009. The other 40% were handled as service complaints, mediated, or received a full investigation by IAD.

Workgroup

Three Citizen Review Committee (CRC) members were originally appointed to the Bias-based Policing Workgroup (BBP or the Workgroup) in December of 2006: Sherrelle Owens (Chair), Hank Miggins, and Marcella Red Thunder. Mark Johnson and JoAnn Jackson joined the Workgroup, and Red Thunder resigned her post, in late 2007.

The Workgroup was briefly staffed by former IPR Community Relations Coordinator, Lauri Stewart. IPR's Senior Management Analyst, Derek Reinke, staffed the majority of workgroup meetings beginning in early 2007. Former IPR Director Leslie Stevens and current Director Mary-Beth Baptista also attended select workgroup meetings.

The Workgroup's original charge was to evaluate the handling of disparate treatment complaints by IPR and IAD. That scope was broadened slightly to consider policy implications derived from the review of complaint files. The Workgroup also reserved the possibility of reviewing additional data sources and research articles, gathering public input, and altering its mission to investigate related areas of concern that might emerge (see Appendix A for Mission Statement and Workgroup Objectives).

The workgroup held more than 20 meetings that were open to community members in the interest of transparency and to facilitate public comment. BBP members also met twice with Portland's Chief of Police.

File Review Methodology

The Workgroup reviewed 36 complaints (received between July 1, 2005 and June 30, 2007) alleging some form of disparate treatment. IPR assisted BBP in the selection of these case files using a stratified random sampling technique, ensuring that the various case-handling dispositions were sufficiently represented (IPR Dismissals, Service Complaints, IAD Declinations, and Full IAD Investigations). Two control samples (of 12 cases each) were also selected from complaints with specific characteristics: African-American complainants alleging improper stop/stopped without cause but not disparate treatment, and Caucasian complaints making the same allegation. Each of the four BBP members dedicated over 15 hours reviewing half (30) of the total sample of case files (60). Each case file was reviewed by two BBP members. Appendix B includes additional details about the sampling and file review work plan.

The Workgroup's review included more than a third of disparate treatment complaints and over 4% of all complaints received over the two-year time frame. Observations made about the content of sampled cases carry a high likelihood of being valid conclusions across the population of complaints (especially given the random sampling). Generalizing a conclusion beyond the framework of the IPR/IAD complaint system, however, is much more tenuous. For example, the complaints reviewed represent roughly one of every 14,000 citizen-police contacts; and only those contacts that led to a complaint made the sampling frame.

To facilitate data collection, BBP members took detailed notes about each case file on specific checklists. The checklists included a mix of open-ended and multiple-choice questions (see Appendix C for a blank checklist). Workgroup members were also provided a copy of the Bureau policies on disparate treatment and bias-based policing to serve as reference material during their review (see Appendix D).

IPR provided an analysis of the checklist data and comments, distilling the common themes and concerns of workgroup members. IPR and the Workgroup were also successful in soliciting an independent analysis by a professor in the Communications Department at Portland State University. Both analyses converged on the same general themes and concerns.

Workgroup Observations of IPR Complaint Intake

IPR Investigators tend to be courteous and professional.

Workgroup members (Reviewers) consistently noted that IPR Investigators treated complainants courteously and fairly, and provided complete and accurate information. On several occasions, reviewers specifically praised the patience, tone, and professionalism of the IPR staff.

There were a handful of times, though, that the IPR Investigators appeared to run out of patience. One reviewer noted an interview in which the IPR staff member became rude and argumentative with the complainant. Other comments suggested that at times IPR staff needed to do a better job of staying on the line, staying interested, and listening instead of talking or interrupting.

IPR writes accurate intake summaries and frames the correct allegations in most cases.

The workgroup found that IPR accurately reflected complainants' concerns in intake summaries and allegations the vast majority of the time. However, there were concerns expressed that some intake summaries captured only a portion of the issues raised and were limited by the quality and style of the interview. For example, reviewers were concerned that occasionally an issue is missed because multiple actions were summarized into one allegation or a particular comment by an investigator precluded the complainant from finishing his or her narrative.

The Workgroup felt that IPR missed an allegation of disparate treatment in just one of the 12 control sample cases. In that case, a young African-American male complained that he was stopped and questioned on a MAX platform in North Portland because he was wearing blue clothing. IPR did not frame a disparate treatment allegation, instead simply recording 'stopped without cause' as the concern. The Workgroup felt IPR missed the complainant's implication that he was profiled as a possible gang member because of his clothing and race.

The handling of audio files was a Workgroup concern as nearly 20% of the interviews did not have an associated recording available. There were no missing recordings in a more recent case file sampling of 17 complaints received between July 1, 2007 and June 30, 2008.

IPR lacks consistency in a few areas and could work on tone of overall message.

IPR handled complaints similarly across comparison groups. The Workgroup did not find evidence of biased case handling. But there were other random inconsistency issues identified from case-to-case. Reviewers noted that some IPR Investigators were clearly more sold on the value of the mediation program and that difference carried through in interviews. Also, IPR Investigators at times attempted to explain officer behavior, share information from police reports, and offer advice about legal issues (going to court, etc.). The office policy in these areas is unclear.

On a more general note, reviewers felt the tone of some IPR letters and phone conversations do not reflect the independence outlined in its charter. At times it appeared that IPR staff questioned the behavior of the complainant, justified the behavior of the officer, and/or discouraged the caller from filing or following through with a complaint.

Common Allegations of PPB Officer Behavior

A methodological limitation merits repeating here: conclusions based on the sample of complaints are only valid to the population of complaints. In other words, the cases reviewed provide some evidence of common alleged behaviors that result in IPR complaints; however, the sample provides little evidence of how widespread or rare those officer behaviors are in everyday interaction with the community.

There is one additional data limitation that pertains to this section specifically. All of the sampled files contained complainant statements and/or recorded interviews and copies of the PPB records or reports of the initial incident that led to the complaint. However, only about one-fourth of the case files (service complaints or full investigations) contained evidence of the accused officers' responses to the complainants' specific allegations.

Many complaints are the result of comments perceived to be rude or insensitive.

In a number of the case files reviewed, the complainant's primary concern was a perceived negative attitude and/or word choice on the part of officer(s). In one example, after a run of a license came up clean – officers then reportedly made disparaging comments. A few times officers mentioned the criminal history of a person openly in public. The complainants (and reviewers) felt that there was little public safety benefit; and alleged that the intent of the officer(s) was to aggravate or embarrass. Reviewers noted that it was commonly alleged that the officer(s) started the interaction down the wrong road with a rude comment.

Reviewers felt that some of the other alleged officer comments or actions were better classified as insensitive, rather than bias driven. For example, officers in one case did not seem to understand or acknowledge that there are special legal standards for Native American children in the juvenile courts. Reviewers noted that male officers in another case seemed to talk over the heads of women in a group they were questioning (allegedly speaking exclusively to the men in the group). Finally, one officer appeared to single out the only African-American among a group of teens for harsher questioning and treatment. On closer inspection, the officer's tone and style likely contributed to the complaint being filed.

Reviewers also noted that a few other complainants alleged that officers "looked down" on ESL or non-English speakers. In one example, an officer reportedly called a complainant "stupid" although the reviewers believed the cause of the misunderstanding may have been a language barrier issue. Fewer, but similar, allegations of rude/insensitive comments were noted in the control sample of Caucasian complainants who stated they were stopped or detained without cause.

Certain police tactics seem to generate many complaints.

Pre-Text Stops

Pretext stops, although a lawful act, gave rise to several complaints from minority drivers. Under both the Fourth Amendment of the United States Constitution and the law in the State of Oregon, if there is a legitimate basis for a stop, the fact that an officer may also have other motives ("pretext") for the stop does not make it illegal. Meaning, if the police lawfully could have stopped a person for any traffic violation, it does not matter that they actually stopped the person to investigate a crime for which they had little or no evidence. *Whren v. US*, 517 US 806 (1996).

The reviewers found that when some minority complainants were stopped for a minor traffic violation, like failure to signal more than a hundred feet before a turn, they expressed doubt they were actually stopped for the violation, and those complainants often assumed that race played a role in the stop. Pretext stops were a source of frustration for both reviewers and complainants.

Mere Conversation

“Mere conversation” is another police tactic that generated complaints and caused reviewers concern. Under Oregon law, “a law enforcement officer remain[s] free to approach persons on the street or in public places, seek their cooperation or assistance, request or impart information, or question them without being called upon to articulate a certain level of suspicion in justification if a particular encounter proves fruitful.” *State v. Holmes*, 311 OR 400 (1991). Mere conversation is defined as a conversation with a community member that occurs in any setting where there is no “significant restraint” or “significant interference” with a citizen. For Oregon constitutional purposes, the analysis focuses on the intent to, and the level of, restriction placed on a person’s freedom of movement by the officer, and an individual’s belief that restriction has occurred is objectively reasonable under the circumstances. *Holmes*.

A number of cases were generated by complainants who stated that they were not engaged in suspicious or illegal activity, but that they were contacted based on a known criminal background. In those cases, officers reported that they engaged these individuals in “mere conversation” and that the individual was free to walk away at any time. The concern of the reviewers were that they did not feel that the complainant understood that they had a right to or felt free to walk away from an officer who was trying to speak with them. Other cases of concern were those where the complainants alleged that they felt that the officers were misrepresenting their identity, their evidence or probable cause, or the purpose of their conversation in the hopes of getting the complainant to disclose criminal activity.

Limited follow-through or customer-service ethic.

There were a few complaints that alleged mishandling of personal property by officers (e.g., failing to record/log or provide information on how to retrieve items). Reviewers also observed that officers did not appear to be consistently providing business cards when asked. They also found that some of the complaints they reviewed were generated because of comments made by some officers did not reflect a customer-service approach to the public. Again, no conclusion can be drawn about the prevalence of these behaviors generally, only that they are a significant source of citizen complaints about officer conduct.

Other General Workgroup Conclusions

IPR and IAD make valid case-handling decisions.

In almost every case, reviewers agreed that the case-handling decisions made by IPR and/or IAD were well-informed and justified by the relevant facts. Follow-up actions (such as officer debriefing and explanation letters to complainants) were deemed appropriate. This is a significant finding given that IPR dismissed, or IAD declined, a majority of the cases reviewed.

IAD investigations are adequate, but PPB Commanders' findings cause concern.

Seven IAD investigations were reviewed. The Workgroup felt that IAD conducted adequate investigations overall. There were no sustained findings. In two of the seven cases, workgroup members felt the commanders' findings were justified based on the information they reviewed. Reviewers' opinions were split in the other five cases, with some reviewers concluding that several "unfounded" findings gave too much deference to the officers' statements or too little weight to the complainants' statements. These reviewers felt that the proper findings should have been "insufficient evidence." There was less concern about the lack of "sustained" findings. Of note: the Bureau merged its "unfounded" and "insufficient evidence" finding categories into a single category of "unproven" on July 31, 2007.

Disparate treatment allegations are difficult to prove.

Reviewers acknowledged that allegations of disparate treatment are hard to prove on a case-by-case basis. The behavior triggering the complaint is often quite subtle like a comment or an attitude, and may even have more to do with the complainants' perceptions than the officers' underlying intent or displayed behavior. Usually, there is little concrete evidence and the complainant and the officer often describe two different accounts of the incident. In these situations, reviewers felt that additional information helped inform the review.

For example, in one case the reviewer appreciated the previous IPR Director's efforts to bring to the Bureau's attention that prior to the current complaint; the officer had received a number of similar complaints in a short timeframe. As a result of the Director's actions, IAD conducted a full investigation rather than route the case for resolution as a service complaint. Another reviewer noted that five of the 30 cases he reviewed named the same officer. This officer's disparate treatment complaint history also led to a more critical review of a subsequent case. Such demonstrated patterns of past behavior can provide stronger evidence of an officer's approach to a current encounter than looking at behavior solely on a case-by-case basis.

Interim Report and Recommendations

The Workgroup produced an interim report based on its review of the 60 IPR case files (received between July 1, 2005 and June 30, 2007). The interim report was routed to the Bureau and IPR for comment and presented to the full CRC in February 2009 for adoption. The report was then released to public and media, posted on IPR's website, copies were made available at the IPR office, and copies were specifically routed to various groups for feedback.

IPR staff actively solicited feedback on the interim report from these groups including city entities (e.g., Office of Human Relations, Police Commissioner and staff) and numerous community organizations (e.g., Oregon Action, Portland Copwatch, League of Women Voters, Self Enhancement Inc., Albina Ministerial Alliance, Immigrant and Refugee Community Organization). Public feedback has been incorporated into the report.

The interim report included seven recommendations to IPR and three to CRC. The report also suggested four areas for follow-up or discussion and identified two areas of additional research interest. The detailed interim recommendations and additional concerns follow:

Suggested follow-up discussion topics between the Workgroup and the Bureau:

- **Officer training in the areas of cultural competency, courtesy, customer service, and communication with the public.** Review the current PPB Training curriculum in these areas. Address questions regarding opportunities for continued education and training on these topics for officers through their career. Discuss the possibilities regarding additional or follow-up training for officers who generate a designated number of disparate treatment or similar complaints.
- **Review the PPB policy on disclosing criminal histories.** Educate/inform Workgroup members regarding policies, if any, regarding disclosure of a community member's personal information, including criminal history.
- **Review the PPB policy on business cards.** Reviewers felt that complaints would be reduced if officers were required to provide business cards routinely upon contact with the public. Discuss ideas regarding a more uniform strategy or policy regarding distribution of business cards.
- **Minority communities and the Bureau.** Educate / inform Workgroup members of the Bureau's current outreach efforts aimed towards building more healthy relationships with minority communities. Discuss ways in which CRC and IPR can assist in these efforts.

Areas of Workgroup member interest and potential research and follow-up:

- **How patterns in larger samples of IPR and Bureau data could play a bigger role in understanding disparate treatment complaints.** Understanding that disparate treatment allegations are difficult to prove individually, research other ways to utilize summary information, patterns, trends, and other Bureau data to reduce complaint volume.
- **The issue of pretext stops and minority drivers/complainants.** The Workgroup would like more in depth review of common issues surrounding 'pretext' stops.

Recommend that IPR:

- **Revisit the tone its investigators use with the public and the messages presented in its communications with the community.** Relatively small changes in the tone and approach of IPR could go a long way towards the office living up to the "Independent" part of its charter.
- **Tighten up certain office procedures (e.g., audio file storage) and further develop office policies (e.g., giving legal advice, sharing police report information, explaining officer behavior).** Office policies seemed unclear in a few minor, but important, areas.
- **Provide more staff training.** Training objectives should include enhanced listening and interviewing techniques, and increased consistency within IPR and between IPR and IAD. Pool resources with IAD for combined training when appropriate.
- **Not oversimplify or consolidate allegations within a complaint.** Reviewers expressed concern that sometimes not all allegations are individually listed and named.
- **Take care in assigning and tracking Service Complaints.** The service complaint process appears to be an effective intervention when it is an appropriate match for the concern raised and the supervisor and officer take the complaint seriously. IPR should take care in using this tool in only appropriate situations, be open to CRC audit and

- review of service complaints, and should track the supervisory handling and response.
- **Take care to clarify and offer case-handling options, as in mediation.** IPR Investigators should be consistent with explaining the process and its possible outcomes.
 - **Make use of soon-to-be-hired Outreach Coordinator's position and tasks.** The Coordinator's role should include reaching-out and communicating with minority communities and building trust between the communities and IPR.

Recommend that CRC:

- **Follow-up with IPR and track progress on the recommendations listed above.** Also, task the Case Handling and/or IPR Structure Review Workgroups with providing additional direction on Service Complaint and Allegation concerns.
- **Focus more attention on officer/community relationships, communication, and trust.** Think of ways that CRC and IPR could help bridge the trust between minority communities and the Bureau, without compromising their effective oversight roles.
- **Have a more consistent audit presence rather than simply reviewing cases that are appealed.** CRC and its workgroups should engage in more regular, routine auditing of IPR case files, office policies/procedures, and case-handling decisions. The credibility of both groups would be enhanced.

The BBP Mission Statement and Workgroup Objectives (Appendix A) were written with a broader scope than the File Review Work Plan (Appendix B). As it received feedback and public comment on the interim report and its recommendations, the Workgroup evaluated remaining objectives and determined its next steps.

Follow-up with Chief of Police

Chief's Plan to Address Racial Profiling

Portland's Chief of Police, Rosanne Sizer, released a *Plan to Address Racial Profiling* the same week the BBP Interim Report was released (in February 2009). Coincidentally, many elements of the plan addressed specific concerns and discussion areas identified by the workgroup. For example, the plan discusses the potential negative community impacts if 'mere conversation' techniques are overused and highlights the need for enhanced cultural competency training for PPB officers. The full plan can be reviewed on the PPB website: <http://www.portlandonline.com/police/index.cfm?a=230887&c=29870>

The Bureau partnered with the Human Rights Commission's Community and Police Relations Committee to collect feedback on the plan at two community meetings in April 2009. Chief Sizer was later asked to present her plan in front of City Council in September 2009, which included the opportunity for public testimony and general discussion.

Workgroup Meetings with the Chief

In June and November of 2009, BBP Workgroup members met with Chief Sizer. The June meeting was initiated by the workgroup and primarily focused on the four 'suggested follow-up discussion topics' listed above. Chief Sizer and her staff initiated the November meeting.

Business Cards

In June, the Chief shared her plan to incorporate officer contact information (similar to providing a business card) as a part of the Bureau's upgrade to hand-held electronic ticketing devices. When coupled with a discussed requirement to ticket or give a written warning at each stop, she believed this would address the bulk of concerns relating to 'business card' accountability – and the workgroup generally agreed. However, community leaders testifying at the September City Council session disagreed. Their concern went beyond having specific contact information on a ticket or warning. They argued for the value of business cards as a stand-alone outreach (and accountability) tool for a variety of contacts and preferred keeping them separate from tickets and warnings even when those are issued. With their encouragement, City Council pressed the Chief to rewrite Bureau policy requiring officers to provide business cards during the majority of their interactions with the public.

Pretext Stops

The Chief's plan makes no mention of pretext stops. A similar technique, mere conversation, is the topic of one strategy area. Specifically, the plan aims to review PPB training to ensure that officers are not inadvertently encouraged to request searches indiscriminately, without consideration for perceived and actual community impacts (e.g., police-community trust). The workgroup encouraged the Chief to include pretext stops in that review since public reaction to both techniques is strikingly similar (as evidenced in the file review). IPR is still planning additional research into pretext stops and has requested to be informed of Bureau work in the area. For example, this may include IPR staff attending meetings of the contraband 'hit rate' workgroup or actively reviewing various data collection methodologies.

Minority communities and PPB

At both meetings, the Chief provided information about current Bureau outreach efforts aimed at minority communities. She discussed the Living Room Conversations in which officers are welcomed into the homes of Hispanic Portlanders for small group discussions. The Chief also give examples of the many service agencies that host newly-hired PPB officers who are awaiting training slots at the academy. This one-week community immersion program exposes recruits to different populations they will be expected to serve and provides a preview of how those groups perceive police officers.

While an interim suggestion mentioned exploring ways that CRC and IPR could partner with the Bureau in outreach efforts, some concerns about independence were later expressed. CRC and IPR must be careful not to comprise its integrity and oversight role for the less-important goal of combined outreach. One member of the workgroup, who chose not to seek reappointment to CRC, expressed interest in working with the Bureau on outreach to minorities.

Finally, the Chief and Bureau staff felt encouraged by public perception data recently published in the 2009 LECC (Law Enforcement Contacts Policy and Data Review Committee) Annual Report, which suggests improving perceptions of police by minority drivers in Oregon since 2005 (see: <http://www.cjpri.ccj.pdx.edu/LECC/index.php>).

Update on Other Recommendations

IPR Staff Training and Consistency

Intercultural Competency

IPR staff completed 12 hours of intercultural competency training covering oppression theory, racism, and intercultural competence late in the fall of 2009. The training included small and large group discussion, interactive group work, and role plays. Training facilitator Rut Martinez-Alicea made a presentation to CRC (in December) regarding her experience with IPR.

Other Concerns

IPR management revised the tone of IPR communications, including rewriting numerous letters and forms during 2008 and 2009. They have also developed intake procedures aimed to provide a more consistent approach to case handling, discussing mediation, and placed strict limits on giving quasi-legal advice or explaining police behavior.

IPR Outreach Efforts

IPR's Community Outreach Coordinator position was filled after being vacant for well over a year. Irene Konev, hired in March 2009, immediately went to work reconnecting IPR with underserved populations and communities of color. Numerous examples of Konev's efforts are listed in recent IPR/CRC Quarterly Reports, including building relationships with organizations such as Africa House, Asian Family Services, Self Enhancement Services, and Urban League. Presentations have taken place in the community's native language whenever possible. For example, Konev presented to Russian Church Pastors at various meetings and to their congregations in Russian, and IPR staff member Mike Hess presented to Hispanic community leaders at Morrison Family Services in Spanish. Finally, IPR staff members have been active participants on the Human Rights Commission's Community and Police Relations Committee, which was just forming as the BBP interim report was released.

CRC Efforts

As recommended, the CRC recently overhauled the mission and make-up of its Case-handling Workgroup. Now known as the Recurring Audit Workgroup, it will feature rotating membership and conduct more regular, routine auditing of IPR case files.

Following Community Outreach Coordinator Konev's arrival, the CRC also revamped its Outreach Workgroup. Among other efforts, that workgroup is in the early stages of planning an officer/community relations forum.

Appendix A

Mission Statement

The mission of the Biased-based Policing Committee is to audit complaints, gather public input, and review other relevant information for patterns of problems, examination of the complaint process, and to potentially develop recommendations to modify IPR & Bureau policies & procedures in order to prevent problems, improve the quality of investigations, and to improve police community relations, with the goal that a work group product will be developed for presentation to the CRC.

Workgroup Objectives

1. Review case files to determine patterns in complaints filed.
2. Catalog data in a format identified by Workgroup.
3. Develop a draft of a Regular Report Template and draft an Ongoing Reporting System for the regular disclosure of pertinent data.

Once objectives 1-3 are met, decide how to proceed and re-define Workgroup Objectives to include the creation of a Workgroup Product, which includes making recommendations to CRC with the intent that CRC will recommend that Workgroup Product be presented to City Council.

Appendix B

File Review Work Plan

1. **File Review Objective:** Evaluate the handling of disparate treatment and racial profiling complaints by IPR and PPB between 7/1/2005 and 6/30/2007. Based on the evaluation, develop recommendations to the full CRC for improvements in IPR & Bureau Policies and IAD's handling of disparate treatment complaints (**In accordance with the Mission Statement approved by the CRC for the Bias-based Policing Committee and in accordance with 3.21.090 (3) & (6) Powers and Duties of the Committee and 3.21.170 (C) & (D) Monitoring and Reporting**).

Mission Statement: The mission of the Bias-based Policing Committee is to audit complaints, gather public input, and review other relevant information for patterns of problems, examination of the complaint process, and to potentially develop recommendations to modify IPR & Bureau Policies & Procedures in order to prevent problems, improve the quality of investigations, and to improve police community relations, with the goal that a work group product will be developed for presentation to the CRC.

Staff comment: The Workgroup's recommendations for improving complaint handling should be based on the evidence found in actual cases. A larger sample of cases will help to insure defensible and credible recommendations. If the Workgroup wishes to propose broader policy changes to PPB, the methodology is described in PSF-5.18—CRC-IPR Policy Review Protocol.

2. Actions

- a. Read the ordinances, PPB directives, and IPR protocols relevant to the handling of disparate treatment complaints.
- b. Review IPR's data on the handling of disparate treatment complaints.
- c. Review a representative sample of literature related to the evaluation of bias-based policing data.
- d. Select a meaningful sample of case files to review in the following categories:
 - IPR Dismissals
 - IAD Declinations
 - Service Complaints
 - IAD Investigations
 - Test Sample*

For the Test Sample, IPR staff will randomly select complaints from African-Americans in which IPR did not list an allegation of Disparate Treatment or Racial Profiling but did list an allegation of Improper Stop or Stopped Without Cause. The Workgroup will determine whether IPR *should* have added Disparate Treatment or Racial Profiling allegations. Additional information on the sampling plan is provided below.

Staff comment: Mediation was used to address only one Disparate Treatment allegation between 7/1/2005 and 6/30/2007. The case is still open and pending.

- e. Adopt checklists for each file type.
3. **Individually review the files and complete the checklists no later than _____.**
4. **Staff analyzes the checklists and organizes summaries of reviewers' findings and recommendations for improved case handling. Staff will list policy issues identified by reviewers in the checklists. Workgroup meets to jointly review the checklists and summaries.**
5. **As part of the workgroup product, work with IPR staff to develop a draft of a Regular Report Template, Draft an Ongoing Reporting System for the regular disclosure of pertinent data, and to prepare a report to the full CRC subject to the requirements of PSF-5.18—CRC-IPR Policy Review Protocol for recommendations regarding PPB policies and in accordance with the BBP Workgroup Mission Statement approved by CRC.**

As recorded and approved in the BBP minutes on 2/7/2007, once the BBP Workgroup Objectives 1-3 are met (**goals are met upon the completion of the File Review Work Plan**), the BBP Workgroup will decide on how to proceed and look to re-define the BBP Work Group Objectives to include presenting the workgroup product to CRC with the intent that CRC will recommend that the finished product be presented to the City Council, as agreed upon in the 2/7/2007 minutes.

Disparate Treatment Statistics and Sampling Plan

There were a total of 104 complaints with an allegation of disparate treatment between July 1, 2005 and June 30, 2007. As several cases include multiple allegations, the 104 cases represent 143 total allegations. 15 cases are still open as of August 1, 2007. Approximately 76% alleged racially motivated discrimination. The other 24% primarily alleged bias based on gender or sexual orientation.

The table below provides the nature and disposition of the 89 closed cases from the two-year test period.

	IPR Dismissals*	Service Complaints	IAD Declines**	Full Investigations	
Racial	Declines=23 Dec. and/or Refer=7 Rapid=8	38	9	15	6
	Declines=5 Rapid=1	6	5	9	1

* Includes Referrals, Dec and Referral, and Rapids

** Includes Referrals, Dec. and Referral

Total of 89 Closed cases (9 R's)

For a comprehensive review of each case (and disposition) type, the Bias-based Policing Workgroup will review a minimum of 7 randomly-sampled cases from each of the columns above. The initial recommendation is 10 to 12 IPR Dismissals, 7 or 8 Service Complaints, 10 IAD Declinations, and all 7 Full IAD Investigations (for a total for approximately 35 cases).

The Workgroup will also review a sample of cases where IPR staff did not list an allegation of disparate treatment. For this Test Sample, IPR staff will randomly select 10 to 12 cases from a specific group: African-Americans complainants alleging 'Improper Stop' or 'Stopped Without Cause' but not Disparate Treatment (as those appear to be the most likely situations in which IPR might have missed a disparate treatment allegation). The Workgroup will determine whether IPR *should* have added Disparate Treatment allegations.

(Note: the Workgroup later added a second test sample of Caucasian complainants.)

Appendix C

Checklist for Review of Disparate Treatment Complaints DISMISSED BY IPR

SUMMARY OF FACTS

1. What was the nature of the alleged disparate treatment?

- Race
- Gender
- Sexual orientation
- Other _____

2. Does the written Intake Summary accurately reflect the recorded intake interview of complainant and any written complaint materials?

- Yes
- No (explain)

3. Did IPR correctly identify and categorize the complainant's disparate treatment allegations?

- Yes
- No (explain)

4. Technical Conformance to Case Handling Guidelines

a. What were the recorded reasons for IPR's dismissal of the disparate treatment allegation(s)? *Note: For brevity and clarity, some reasons have been combined, e.g., "Complainant Unavailable" and "Complainant Withdrew" are different reasons for dismissal, but they are combined in this analysis.*

- Complainant Unavailable or Withdrew
- False, Trivial, Deminimus, Not Credible or Reliable
- Filing Delay
- No misconduct
- Lack resources
- Other Remedy or Judicial Review
- Other jurisdiction
- Previously Adjudicated
- Third Party complainant
- Officer not identifiable or no longer employed by PPB

b. Did IPR take any post-dismissal action on the allegation:

- No
- Yes (e.g., referral to precinct commander) _____

c. Do the facts support the recorded reasons for the IPR dismissal?

Yes

No (explain what action IPR should have taken)

d. If the facts do not support the reason for the IPR dismissal, explain why and what action IPR should have taken:

5. **Reasonableness.** Even if the allegation technically meets the criteria for dismissal, were there other reasons that the complaint should have been sent to IAD?

6. Did the complainant submit information contesting the dismissal?

Yes

No

7. If yes to #6, what information was submitted? (explain)

8. If yes to #6, how did IPR address the contested dismissal and the additional information submitted? (explain)

9. Does this case raise IPR or PPB policy issues you wish to identify for future consideration?

a. Policy issues for IPR:

b. Policy issues for PPB:

10. Other comments, if any:

11. Total time to review this file: _____ minutes

Appendix D

PPB Policies and Definitions Covering Bias-based Policing

IAD Complaint Categories (330.00)

- d. Disparate Treatment: Allegations of specific actions or statements that indicate inappropriate treatment of an individual that is different from the treatment of another because of race, sex, age, national origin, sexual orientation, economic status, political or religious beliefs, mental or physical disability, etc. Allegations of this nature between members will be processed per DIR 344.00 Prohibited Discrimination and HR Administrative Rule 2.2. Allegations involving member conduct or actions toward individuals outside the Bureau will be investigated as misconduct complaints by IAD.

344.00 PROHIBITED DISCRIMINATION

Index: Title; Discrimination, Prohibited; Sexual Harassment Prohibited

POLICY (344.00)

All members shall be treated with respect and dignity, and shall strive to maintain an environment free from discrimination and harassment. It is a goal of the Bureau to remove barriers, which cause discrimination.

Members will not engage in prohibited discrimination on the basis of race, color, religion, gender, national origin, age, marital status, sexual orientation, mental or physical disability, or source of income in the delivery of services or in the treatment of any citizen. Members will not sexually harass any citizen or engage in any conduct prohibited by this directive in the delivery of services to the public.

Members are prohibited from the stopping, detention and search of persons under ORS 810.410 when the action is motivated by the member's perception of the person's race, color, sex or national origin and when the action would constitute a violation of the person's civil rights.

Violations of policy on prohibited discrimination and/or harassment constitute extremely serious misconduct, which will result in strong disciplinary action, up to, and including discharge.

Members shall not engage in discrimination or harassment. Members shall not engage in verbal or physical conduct in violation of this directive or threaten or engage in retaliation or other unlawful harassment.

344.05 BIAS-BASED POLICING

Index: Title; Discrimination, Prohibited

Refer: ORS 810.410 Arrest and Citation

DIR 344.00 Prohibited Discrimination

POLICY (344.05)

Members are prohibited from taking any police-initiated action that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.

RESPONSIBILITY, ACCOUNTABILITY AND CONTROL (344.05)

It is the responsibility of members of all ranks and positions to ensure that policing activities are accomplished without the involvement of racial bias.

Supervisors will ensure that all complaints relating to racial profiling are dealt with in a timely and complete manner as prescribed by Bureau internal investigation policy and procedures.



CITY OF

PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR

Independent Police Review Division

Mary-Beth Baptista, Director

1221 SW 4th Ave, Room 320

Portland, Oregon 97204

Phone: (503) 823-0146

Fax: (503) 823-3530

April 2, 2010

To: Bias-based Policing Workgroup and Citizen Review Committee

From: Mary-Beth Baptista, Director
Independent Police Review

RE: Bias-based Policing Report

I must begin by commending the members of the Bias-based Policing Workgroup (Workgroup) for taking on this difficult task. Although not a new or unique problem, concerns about bias are often difficult to discuss due to the emotional impact such complaints have on the public and the police. Once again, I am beyond impressed with the professionalism the Citizen Review Committee (CRC) members show, and I am encouraged by the dedication they put forth in working toward impartial solutions on issues of importance to themselves and our community.

I am also pleased by the collaborative effort between the staff of the Independent Police Review (IPR) and the Workgroup members that led to the production of this report. Special thanks to IPR Senior Management Analyst Derek Reinke who worked diligently to produce a report that was thorough and balanced, and was overwhelmingly accepted by each of the parties of interest. That was a difficult task to say the least. I am confident that this project provides another excellent example of how our work together has increased both organizations' effectiveness to the great benefit of our community.

I am also gratified, yet not surprised, with the finding that IPR investigators and staff are handling complaints in a courteous and professional manner. IPR is fortunate to have dedicated and caring professions who are eager to improve their level of service. To that end, we have worked together improve our communication with complainants and the public at large, made changes in our internal case-handling procedures, improved our written communications, and have dramatically increased our outreach to the community.

Specifically, IPR investigators now focus on engaging in dialogue with a complainant, and focus on listening and asking open ended questions during their interviews. Further, clear guidelines were established regarding when an investigator can discuss legal issues involved in a complainant's case, including limitations on when the investigator can discuss the possible final disposition of a case during the intake process. The goal is for a complainant to feel heard by the investigator, and for the investigator to gather all of the pertinent information surrounding an incident so that the IPR Director or Assistant

Director can make an informed decision regarding the allegations and recommended disposition of the case.

IPR staff has also initiated some changes in our internal case-handling procedures and written communications. Investigators are now consistently storing audio files of complainant interviews in the electronic folder on IPR's network. I trust that IPR investigators' proven attention to detail in this area will resolve the problem of lost interview recordings. Further, to clarify and maintain consistency in discussing case-handling options with a complainant, IPR investigators now send an "Initial Contact Letter" within 48 hours of the intake interview that summarizes the essence of the complaint and describes each of the case-handling options.

We also acted on the Workgroup's recommendation of increased training. All IPR staff completed intercultural competency training in November 2009. The 12-hour, multisession training has made a lasting difference in IPR staff culture and communication both internally and with the public. This training focused on oppression theory, racism, and understanding the many barriers that historically-marginalized communities face. Staff has taken personal leadership in recognizing strategies to identify and interrupt oppression in daily work at IPR, is using more inclusive language, and is more equipped to use language as a tool to end oppression.

Further, and perhaps most significantly, IPR hired a full-time outreach coordinator in March of 2009; finally filling an 18-month vacancy. Since the first day hired, Community Outreach Coordinator Irene Konev has been approachable, resourceful, and successful in reaching many communities to promote IPR, listen to community concerns and build trust. Her work with underserved communities has been challenging and rewarding. She has also successfully involved IPR staff in her outreach efforts. Assistant Director Constantin Severe and I have worked with a myriad of organizations whose leadership has asked us to make presentations about IPR to their membership as well as hear concerns directly from the communities they represent. One such event was a recent meeting with the Albina Ministerial Alliance where members expressed their concerns about several recent police incidents. We explained the efforts and changes we have made to be a more proactive and involved oversight division and gained their support for increasing IPR's authority.

Irene is also helping to build bridges between the Portland Police Bureau and minority communities without compromising IPR's effective oversight role. For example, after meeting with Morrison Family Services to increase awareness of IPR in the Hispanic community, the group asked for a second meeting with a Portland police officer. Irene worked with the Bureau and an officer, who is an immigrant herself, gladly volunteered to attend and field questions on police procedures and immigrations issues. This partnership process of building trust and opening doors for the Bureau has resulted in many meetings with various organizations such as Native American Youth and Family Services, Africa House and Asian Family Services.

The above describes our initial efforts in an ongoing process to improve our services and increase complainant and community satisfaction. We will update CRC on the status of the recommendations as we make further progress on each. I close by reiterating my sincere appreciation to each of the Bias-based Policing Workgroup members and IPR staff for their efforts throughout this lengthy process. I am proud to be part of this important work.

Sincerely,

A handwritten signature in black ink, appearing to read "MBaptista". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mary-Beth Baptista
Director



CITY OF PORTLAND, OREGON



Bureau of Police

Dan Saltzman, Police Commissioner
Rosanne M. Sizer, Chief of Police

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Integrity • Compassion • Accountability • Respect • Excellence • Service

MEMORANDUM

March 5, 2010

TO: Mary-Beth Baptista, Director
Independent Police Review Division

SUBJECT: Biased-based Policing Workgroup Report

I would like to thank the staff of the Independent Police Review Division (IPR) and members of the Citizen Review Committee (CRC) for their continued dedication to the citizens of Portland and for their time spent in preparing this report. The Portland Police Bureau is dedicated to delivering public safety services in a professional, respectful, fair, and compassionate manner. This report provides insight into how we might better reach that goal.

The Police Bureau has worked hard on the issue on racial profiling and released a Racial Profiling plan in August 2009. In response to the Biased-based Policing subcommittee recommendation, we changed our business card policy last summer to proactively offer business cards in many situations including traffic stops, calls for services, and searches. We delivered customer service training at the 2009 in-service and are delivering a class at the 2010 in-service to reduce the overall incidence of searches while improving the rate of successful searches. We are working with the Community-Police relations subcommittee of the Human Rights Commission to inventory our community outreach efforts and seek ways to improve them.

I will share your report with my command staff. My hope is that these efforts and many others will, over time, bridge the gulf between the Portland Police Bureau and our communities of color.

Sincerely,

ROSANNE M. SIZER
Chief of Police

