



Mayor Sam Adams
City of Portland

MEMORANDUM

Date: December 9, 2011

To: Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman
Commissioner Nick Fish
Auditor LaVonne Griffin-Valade

From: Mayor Sam Adams

CC: Chief of Police Michael Reese
Mary-Beth Baptista

Re: Auditor's Independent Police Review (IPR) Division Ordinance: Proposed Amendments to the Draft Code Changes and Citizen Review Committee (CRC) Protocols

Over the past four weeks, City Council has held three public hearings on the Portland Police Bureau's (PPB) Report on Recommendations Regarding the PPB and an Ordinance submitted by the City Auditor that provides the draft code and city Ordinance revisions relating to the Auditor's Independent Police Review (IPR) Division.

Based on public testimony and conversations with the City Auditor, IPR Director, and City Attorney, I would like to submit four amendments to Exhibit A of the above-mentioned Ordinance package. The amendments and their rationale are listed below – my amendments are included in blue.

Amendment 1

3.21.070.B

Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type **and as well as** the frequency, consistency, and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source

necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.

Rationale

This is a clerical change to enhance clarity.

Amendment 2

3.21.090.A.3

Recommend policy changes. To ~~help the Director identify specific~~ evaluate complaint, ~~and other information~~ investigative practices, and other information in order to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems, ~~and to participate in the development of policy recommendations.~~

Rationale

This amendment makes two changes. The first is a clerical change to enhance clarity – “To evaluate complaint, investigative practices, and other information in order to...” The second change makes explicit what is already in practice – that the Citizen Review Committee (CRC) make policy recommendations to the City Council. While any individual or group may make policy recommendations to City Council, stating that this is an expected function of the CRC clarifies the CRC’s role in the oversight of our systems of accountability.

Amendment 3

3.21.160.B

In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or other officers involved or any other citizen. The complainant or member may appear with counsel. When the Committee’s review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.

Rationale

This change ensures the allowance for the CRC to review any information provided to them through the Committee’s review process, while maintaining a distinction between the Committee’s role in reviewing the process of an investigation and the City employees’ role in conducting the investigation. This

language clarifies that the CRC is not able to contribute new evidence to investigation.

Amendment 4

3.21.160.C

In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, ~~and~~ any documents accumulated during the investigation, [the recording of the Committee's case file review and appeal hearing, the Committee's Case File Review Worksheet](#), and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.

Rationale

This change ensures that all information that is part of the “record of review” from the CRC’s review of an investigation is available to City Council in its own review. To ensure that City Council is presented with a complete record of the information gathered during CRC’s review of an investigation, in addition to the evidence produced by the investigation itself, I believe this addition to the City Code is necessary.

Additionally, during the exploration of these issues, I became aware that the CRC’s ability to provide feedback on allegations to the City employees who are responsible for determining allegations is neither codified nor written into CRC protocols. While this feedback loop exists in current practice, I want to ensure that it is a protected and permanent function of the CRC. Fortunately, it is within the authority of the CRC to change its protocols, with City Auditor approval, to include language on its Case File Review Worksheet pertaining to the proper identification and classification of allegations. Auditor Griffin-Valade has assured me that she would work with CRC to approve an appropriate change to the protocol. I will work with the Auditor and the IPR Director to encourage CRC to pursue this. Such a change would provide stability and permanence to an important function of the CRC.

Auditor Griffin-Valade and IPR Director Mary-Beth Baptista have worked diligently to respond to the many community recommendations relating to Portland’s system of Police oversight and accountability. The Ordinance put forth by the Auditor makes substantial positive changes to this system. I am thankful for your willingness to consider these amendments to those changes and for your commitment to continuous improvement of this important function of the City.