

September 27, 2012

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington D.C. 20530

RE: Community Recommendations: Establishing Consent Decree - Investigation of Portland Police Bureau

Dear Mr. Perez,

We thank you for your thorough and helpful investigation of the Portland Police Bureau (Bureau). We appreciate you soliciting public input into the upcoming Settlement Agreement to be entered into between the Department of Justice (DOJ) and the City of Portland regarding the DOJ's recent findings of a pattern and practice of excessive force by the Bureau.

For decades, concerned citizens and organizations have worked diligently for reform of Bureau practices that violate civil rights and best practices. As such, a wealth of recommendations has been made over the years to the City and Bureau as to how to improve its practices. Many of those recommendations appear in the DOJ's own Investigation Report, and we have highlighted these by putting them at the beginning of each section. Our efforts were sometimes welcomed, sometimes rejected, but mostly ignored. We welcome DOJ's role in tipping the balance towards true reform in our City. As we consistently maintained, we can have public safety without sacrificing civil rights, civility, and compassion, particularly for members of our community who face challenges because of mental or physical health limitations, poverty, and discrimination.

The DOJ's Report emphasizes the need for the Bureau to revise its Policies and Training on Use of Force to focus on de-escalation, to be consistent with Ninth Circuit law, and take into account the mental health of community members who interact with the police. The DOJ investigation found that the "strengthening of training, reducing the complexity and duration of the review and discipline process... can prevent unnecessary or unreasonable uses of force or self-identify incidents or patterns and undertake self-correcting action." We agree.

To make the DOJ investigation and its remedies meaningful, effective, and durable, we provide the attached specific recommendations. The recommendations arise from the recent period of focused and sustained deliberations, but also based on years of deep engagement around issues of use of force by the Bureau, accountability measures and oversight, and biased policing. This includes, but is not limited to: the Police Oversight Stakeholder Report from 2010; the Albina Ministerial Alliance Coalition for Justice and Police Reform Demands from November 2010; the Majority Report from Mayor Katz's 2000 PIIAC Work Group; and the numerous independent reviews of Bureau and Oversight practices.

Our recommendations bear directly on policy and training for use of force: requiring an emphasis on de-escalation; taking into account whether the subject may have a mental illness or is experiencing a mental health crisis; mandating officers use the lowest level of force necessary to achieve lawful means; methods to achieve cultural competency; and facilitating services for those in need of mental health treatment or support.

Our recommendations also seek to promote effective accountability and an independent citizen oversight mechanism that incorporates current practices where they have been effective and proposals where they need improvement.

Finally, our recommendations speak to the establishment of an effective implementation and oversight mechanism for the enforcement and monitoring of the anticipated agreement, a vital part of which includes incorporating the community's voice into the process. We are aware the Albina Ministerial Alliance Coalition for Justice and Police Reform will be making similar recommendations on community oversight, and we support its efforts.

We thank you for the opportunity to weigh in on this critical issue, and look forward to seeing many of our recommendations implemented in the final agreement. We trust that we will be consulted and informed as the path toward a proposed agreement, and its implementation moves forward.

Sincerely,

American Civil Liberties Union of Oregon
Disability Rights Oregon
Hardesty Consulting Services
League of Women Voters of Portland
Portland National Lawyers Guild
Kate Lore, Minister of Social Justice, First Unitarian Church of Portland
Mental Health Association of Portland
Ron Williams, Executive Director, Oregon Action
Tom Steenson, Attorney at Law
Greg and Jason Kafoury, Attorneys at Law

encl.

cc: Michelle Jones, Jonas Geisslar - USDOJ Civil Rights Division, Special Litigation Section
Amanda Marshall, Adrian Brown, Bill Williams - U.S. Attorney, Oregon
Mayor Sam Adams
Chief Michael Reese
Jim Van Dyke, Portland City Attorney

To: Thomas E. Perez, Assistant Attorney General, U.S. Department of Justice Civil Rights Division

From: American Civil Liberties Union of Oregon
 Disability Rights Oregon
 Hardesty Consulting Services
 Greg and Jason Kafoury, Attorneys at Law
 League of Women Voters of Portland
 Kate Lore, Minister of Social Justice, First Unitarian Church of Portland
 Mental Health Association of Portland
 Portland National Lawyers Guild
 Tom Steenson, Attorney at Law
 Ron Williams, Executive Director, Oregon Action

CC: Michelle Jones, Jonas Geisslar, USDOJ Civil Rights Division, Special Litigation Section
 Amanda Marshall, Adrian Brown, Bill Williams, U.S. Attorneys, Oregon
 Mayor Sam Adams, City of Portland
 Chief Michael Reese, Portland Police Bureau
 Jim Van Dyke, Portland City Attorney

Re: Community Recommendations: Establishing Consent Decree - Investigation of Portland Police Bureau

Date: September 27, 2012

TABLE OF CONTENTS

| | |
|--------------------------------------------------------|---------|
| Implementation of Recommendations | Page 1 |
| Use of Force | Page 1 |
| Crisis Intervention | Page 6 |
| Employee Information System | Page 8 |
| Misconduct Investigations: Use of Force | Page 9 |
| Deadly and Excessive Force Investigations | Page 10 |
| Complaint System: Intake, Investigation, Case Handling | Page 11 |
| Review Boards | Page 13 |
| Discipline | Page 14 |
| Community Engagement and Outreach | Page 15 |
| Monitoring, Reporting, and Implementation | Page 17 |

IMPLEMENTATION OF RECOMMENDATIONS:

The City must implement the recommendations presented here, as soon as practicable but no later than July 1, 2013, so that policy changes can be addressed and implemented in the new collective bargaining agreement between Portland and the Portland Police Association.

USE OF FORCE:

1. Overarching Principles

- a. Failure to comply with an officer’s lawful order in and of itself shall not be justification for use of force, or increasing severity of force, when other means of achieving compliance are available and the individual does not pose an imminent threat to officers, members of the public, or him/herself.
- b. Through strengthening of training, reducing the complexity and duration of the review and discipline processes and other measures, PPB can prevent unnecessary or unreasonable uses of force or self-identify incidents or patterns and undertake self-correcting action.

2. De-Escalation/Training (General)

- a. PPB policy and training must recognize and incorporate current caselaw, which recognizes the "most important" factor under *Graham* ["totality of the circumstances" analysis] is whether the suspect posed an "immediate threat to the safety of the officers or others." "A simple statement by an officer that he fears for his safety or the safety others is not enough; there must be objective factors to justify such a concern."
- b. The Policy and training must also consider specific factors, including "the availability of less intrusive alternatives to the force employed, whether proper warnings were given and whether it should have been apparent to officers that the person they used force against was emotionally disturbed. ... [E]ven when an emotionally disturbed individual is 'acting out and inviting officers to use deadly force,' the governmental interest in using such force is diminished by the fact that the officers are confronted, not with a person who has committed a serious crime against others, but with a mentally ill individual." *Glenn v. Washington County*, 673 F.3d 864 (9th Cir. 2011). As such, we have the following recommendations:
 - i. Implement scenario-based training to ensure officers do not use excessive force and only use force justified to meet the government interest.
 - ii. Train and require officers to give at least one warning before using force.
 - iii. PPB's use of force and use of deadly force policies and related training shall require an officer to consider whether a person has a mental illness, appears to have a mental illness, or is experiencing a medical or mental health crisis, in determining what force, if any, to be employed.
 - iv. PPB's use of force policies and related training shall require officers to use the least amount of force possible, and place greater emphasis on de-escalation techniques. De-escalation includes using time as a factor; for example, waiting for backup when there is not an immediate crisis.
 - v. Emphasize the preambles to the use of force and other policies, which underscore the value of human life.
 - vi. The training must emphasize that the point and key measurement of whether the training and use of force decision tool are successful is to reduce the frequency and severity of force in police encounters in general and more specifically in encounters with people known or suspected to have a mental illness.

3. Communication between officers on the scene

- a. Policy and training must require that communication between negotiators and other "teams" must be established.
- b. Proper equipment must be bought, distributed and trained with to ensure communication, such as earpieces that allow two-way dialogue.
- c. Policy and training must require officers to be trained to de-escalate situations and apprehend suspects using the least amount of force possible. Senior officers must take the lead in developing simple and practical plans that can be communicated to all officers on the scene and documented afterward. Supervisors and backup must be present before extracting a suspect from a vehicle.
- d. Commanders should not leave the scene of an unfolding action/use of force; clear line of command should be established.

4. Use of Force Reporting/Analysis

- a. When reviewing and analyzing Use of Force Reports, command must use a focused "decision-point" approach (also known as segmentation) to analyze each use of force incident, considering each point when an officer made a decision that may have an effect on

subsequent events, as opposed to focusing solely on the final decision to use force. The decision-point process allows the police supervisor to conduct more intensive and comprehensive reviews of the reasonableness of a particular use of force incident and to identify and address any flawed tactical decisions and training opportunities.

- b. Policy and Training on Use of Force reporting shall include:
 - i. Do not use conclusive language;
 - ii. Take statements from independent witnesses and the person against whom force was used;
 - iii. All officers on scene must write and submit reports as soon as practicable but no later than 24 hours after a use of force incident;
 - iv. Subordinate officers should not investigate superior officers;
 - v. Supervising officers should not sign off on their own uses of force;
 - vi. Supervisors who order use of force should write force reports and after action reports;
 - vii. Take pictures of injuries;
 - viii. Review of Use of Force Reports must address or resolve discrepancies between involved officers' statements and reports;
 - ix. Review of Use of Force Reports must analyze whether there was reasonable suspicion or probable cause for the original stop and detention, and whether the original stop was the product of a "mere conversation."

5. **Deadly force/Tasers/Less-lethal force**

- a. PPB's use of force and use of deadly force policies and related training shall provide a **clear level of force continuum**. In the force continuum, it is the suspect's level of resistance that determines the officer's response and delineates suspects into one of four categories: not resistant (compliant), passively resistant, aggressively resistant, and deadly resistant.
 - i. **"Not resistant"**: suspects who do not resist but follow all commands are compliant. Only a law enforcement officer's presence and verbal commands are required when dealing with these individuals; no coercive physical contact is necessary.
 - ii. **"Passively resistant"**: A passively resistant suspect fails to follow commands, may be verbally abusive, may attempt to move away from the officer, may escape from the officer's grip or may flee from the officer. The suspect's actions are neutral or defensive, so the officer does not feel threatened by his actions. If not a criminal matter, many times people are released after physical resistance because they have been defused by the officer and there is no longer a need to keep them in custody or restraints such as handcuffs. The subject maybe said to have "resisted" but not aggressively or violently.
 - iii. **"Aggressively resistant"**: An aggressively resistant suspect takes offensive action by attempting to push, throw, strike, tackle, or physically harm the officer or another person. To defend himself, the officer may respond with appropriate force to stop the attack. The officer feels threatened by the suspect's actions. Justified responses include the use of personal weapons (hands, fists, knees, elbows or feet, impact weapons such as ASP batons, and pepper spray). A bean bag shotgun or a Taser may not be discharged unless, in addition to being aggressively resistant, the suspect, by his/her words or conduct, gives an officer the reasonable belief that the suspect poses a credible and immediate threat (coupled with the means and ability to carry out the threat) of serious physical injury to the suspect himself/herself, the officer, or another person.

- iv. “Deadly resistant”: A deadly resistant suspect will seriously injure or kill the officer or another person if immediate action is not taken to stop the threat. The threat must be actual and immediate and not merely a potential threat or a threat that is possible sometime in the future. If such an actual and immediate threat exists, the officer is justified in using force, including deadly force, reasonably necessary to overcome the suspect and affect custody.
- b. **City Ordinance and State Law Amendments**
 - i. The City of Portland shall adopt a citywide ordinance against police brutality.
 - 1. Policy and training shall specifically prohibit an officer from relying upon the Oregon criminal statutes’ justification provisions as a justification for the use of force or the use of deadly force.
 - ii. The City shall support a change in Oregon’s statute on deadly force to include objective standards defining a threat to public safety, rather than an officer’s “reasonable belief” that his/her life or another’s is in danger.
- c. Policy must be clear that a firearm may only be brought out when a subject is aggressively resistant.
- d. Policy and training must require officers to use and document the use of less-lethal and non-lethal means to subdue suspects prior to using deadly force, in the absence of gunfire. The decision to use lethal force must be tied to the seriousness of an alleged offense, presumably only violent arrestable offenses would justify “stepping up” the level of force.
- e. Policy and Training on use of force and use of deadly force shall prohibit the use of impact weapons (such as ASP batons) and personal weapons (such as hands, fists, elbows, knees, or feet) to strike a suspect in the head, neck, chest or groin.¹
- f. **Beanbag shotgun**: If used at all, a less lethal (“Beanbag”) shotgun should not be used for compliance, and not used from less than 10 feet.
- g. **Police dogs**: If used at all, use of police dogs should be coordinated so as not to be used simultaneously with other uses of force.
- h. **Evaluation of weaponry and use**
 - i. All less lethal weaponry should be re-evaluated for effectiveness, potential dangers, and appropriateness for use against civilians, including Tasers, “beanbag” shotguns, and pepper spray. This review shall specifically include the examination of the disturbing policy of allowing use of these weapons against suspects who are fatally wounded.
 - ii. Report on (at least annually, but preferably, at 6 month intervals) use of Tasers in encounters with persons with mental illness and look systemically at the adequacy of training, discipline, and performance review if the numbers do not go down. The same measure could also trigger a revisiting of whether other measures such as Respond teams or the drop off center(s) need to increase their capacity and reach. These checks for reduction should work from a base level by precinct that will address the anticipated argument that more encounters should be expected in particular precincts with high concentration of individuals with mental illness. The average precinct baseline for use of force should also allow PPB to identify officers

¹ DOJ’s review of FDCRs revealed numerous examples in which officers used ECWs, beanbag guns, and multiple fists strikes beyond what was necessary to effectuate the arrest and a failure to consider less intrusive alternatives. PPB’s failure to identify these excessive uses of force as being out of policy, results in a missed opportunity to take corrective action.

who are at either end of the spectrum from the average so that they can be directed to more training, investigation of fitness, or recognition, reward, and additional responsibility in determining how PPB officers respond to people with mental illness.

i. **Tasers or ECW**

- i. Policy and training shall impose strict limits on the use of Tasers, as a Taser's "electrical impulse instantly overrides the victim's central nervous system, paralyzing the muscles throughout the body, rendering the target limp and helpless" and causes "an excruciating pain that radiates throughout the body." *Bryan v. McPherson*, 590 F.3d 767 (9th Cir. 2009).
- ii. Tasers should only be used in situations that would most likely otherwise escalate and require the use of deadly force. Only through this use are Tasers a true alternative to deadly force as opposed to a method to escalate otherwise less dangerous situations.
- iii. Policy and training on use of force shall (1) restrict discharge of a Taser on a person to no more than 3 cycles of no more than 5 seconds each; (2) prohibit shots to the head, neck, chest or groin unless the use of deadly force is authorized; (3) require each discharge to be based on a separate decision that an objectively reasonable basis exists for the discharge; (4) immediately after the last discharge, handcuff the suspect and place him/her in a sitting, standing or recovery position; and (5) have the suspect examined as soon as possible by an EMS paramedic in the field or at a medical facility; (6) prohibit multiple officers from simultaneous use of Tasers. Proper consideration and care should be taken in deploying a Taser on suspects who are in an elevated position or in other circumstances where a fall may cause substantial injury or death (e.g., individuals on roof tops, on stairs or pregnant women).²
- iv. Train officers to go hands-on following the first application of less-lethal force, when feasible, to effectuate the arrest, and to use as few cycles of the ECW as possible.
- v. Train and require officers to avoid using more intrusive forms of force, such as beanbag guns and ECWs, on individuals who do not pose a threat to the safety of officers and others or who are suspected of committing minor offenses.
- vi. Policy and training shall prohibit use of Tasers on unarmed, naked individuals.
- vii. PPB must resolve ambiguities in the Taser policy regarding "display[ing] the intent to engage in" aggressive or physical resistance, and the definition of "physical resistance."
- viii. "Laser dot only" use of Tasers and threatened use of Tasers should be reported on and those reports should be publically available.
- j. Policy and training shall prohibit the use of impact weapons such as ASP batons, personal weapons, pepper spray, beanbag shotguns, and Tasers on passively resistant suspects or those not actually engaged in aggressive resistance. Impact weapons, personal weapons, pepper spray, beanbag shotguns, and Tasers cannot be used on a suspect who merely "displays the intent to engage in" physical or aggressive resistance.

² The use of an ECW on a person could result in serious injuries when intense pain and loss of muscle control cause a sudden and uncontrolled fall. And, ECW use can result in death. PPB's policy does not provide any guidance regarding the maximum number of ECW cycles an officer may deploy or limit how many officers can deploy their ECW at a single subject, absent exigent circumstances.

6. Medical Attention

- a. Policy and training shall require Emergency Medical Services (EMS) to be called whenever an injury occurs or whenever a subject complains of an injury. PPB must review its data to determine if officers are routinely procuring medical care at the earliest opportunity and, if not, revise its policies and training accordingly.
- b. In case of injury of any suspect, all officers must remain on the scene and at least one officer must administer first aid/CPR and remain with the injured person or persons until paramedics arrive. Police must not hamper or delay prompt medical attention from being administered. First aid training must include direction to apply first aid as soon as possible.
- c. Any person who loses consciousness or shows other signs of health emergency while in custody must immediately be transported to the nearest emergency room via ambulance transport.
- d. Whenever an injury occurs or whenever a subject complains of an injury, EMS and a supervisory PPB officer not involved with any use of force on the subject must be informed with as much specific information as possible about (1) the nature and amount of force used by the officer(s) on the subject; (2) whether the subject was taken or fell to the ground or struck any objects and, if so, what part(s) of the subject's body struck the ground or object; (3) all symptoms and other evidence of injury to the subject such as apparent loss of consciousness, breathing problems, irregular pulse rate or heart beat, bleeding, pain or other symptom or evidence of a health emergency; (4) all of the subject's complaints, if any; and (5) whether the subject appeared to be under the influence of drugs or alcohol or exhibited symptoms of mental illness or appears to have a mental illness.

CRISIS INTERVENTION:

1. Composition of Crisis Intervention Team (CIT)

- a. In addition to the mandatory 40 hours of CIT training, create a "crisis response team," a specialized unit of crisis intervention officers selected based on temperament, experience and desire to interact with individuals with mental illness or in mental health crisis.

2. CIT Training

- a. As the DOJ's investigation revealed two systemic deficiencies contributing to unconstitutional uses of force against people in mental health crisis: (1) the absence of officers specially trained in and proficient at responding to mental health crisis; and (2) the lack of strategic disengagement protocols involving mental health providers, Policy and training must evolve to provide tools to handle these incidents in a constitutional and safe manner.
- b. Many PPB officers fail to recognize that persons with mental illness need to be dealt with differently, and may react very differently to police assistance, than an average citizen. Officers must have the tools to identify when a person in crisis has a mental illness in order to appropriately adjust their approach and response. The usual command and control approach does not work effectively with people in a mental illness crisis.
- c. CIT training should be embedded and better connected with *all* other training. In particular, CIT training needs to be combined into all training on reasonable use of force. Role-playing is an important vehicle for training and as such, it should address the sorts of serious issues that arise, including those that require de-escalation and use of force.
 - i. Reconcile the Bureau's training on use of force with the de-escalation taught to all officers in Crisis Intervention Team training, so that police are more likely to talk and less likely to cause injury.

- d. Person first language should be used throughout the PPB, policy and training, including during CIT training. For example, instead of “mentals”[sic], “people with mental illness” should be used.
- e. Incorporate persons in recovery in a crisis intervention class. One of the most effective ways to address the stigma of mental illness is to increase direct exposure to people with mental illness. The opportunity for officers to now see people, who may have been violent offenders when ill, as stable contributors in a crisis intervention class is a powerful game changer in crisis intervention training programs. , PPB will not only involve the community, but it may also lower the level of fear, and lead to less fear-based unintended consequences.³
- f. CIT training should offer the opportunity to meet people with mental illness in person rather than through video vignettes.⁴
- g. CIT training should allow PPB officers to directly broach the prevalent “us” vs. them mentality.
- h. Provide more training of police on mental health and other issues.
- i. The CIT Advisory Board must be provided access to all CIT training materials as well as to the actual PPB CIT training in order to have sufficient information for performing the advisory role. Since the mandatory training of all PPB officers, there has been a lack of complete disclosure of the CIT training materials and its classes.
- j. CIT and use of force training must include mental illness clinicians and advocates in the planning, creation and review of materials, and actual delivery of training to make it clear that DOJ is not simply adding on a check-off activity that certifies an officer has received his/her required training about mental illness. The training should include materials and activities that address a pervasive attitude that persons with mental illness, especially those who are homeless, are dangerous to touch based on distorted fears of saliva, HIV, and even transmittable mental illness.⁵

3. Use of CIT Training

- a. Police encounters with individuals who are mentally ill can quickly escalate. Practices and strategies to de-escalate these incidents to protect the safety of both the individual and the officer are required. . . . It is critical that officers are adept at using these non-force policing tools, not only to protect themselves and others, but because individuals who suffer from mental illness are among the most vulnerable in our society, and neither they, nor their families should be afraid to turn to the police for help.

³ Crisis intervention training as currently delivered by PPB is a police based training lacking important community collaboration... This is problematic for PPB’s ability to understand the community it must serve and protect. There does not appear to be good reason to deny reasonable access to a crisis intervention course to consumers, family members, advocates, or mental health workers. Also absent from the current PPB crisis intervention training is live exposure to consumers and family members.

⁴ The current training in the basic and advanced academies involves training modules scattered over multiple days. The impact of a week-long crisis intervention training experience is lost. Our investigation also found that PPB abandoned live role playing, replacing role plays with discussions of scenarios. Discussions of given scenarios cannot replace role-playing realistic scenarios in front of peers. Role-playing is generally viewed as a key element to a successful police training in general and a crisis intervention program in particular. Training must include police interactions with people who are symptomatic, but not in crisis, to avoid criminalizing mental illness.

⁵ This would require a change of culture to convey that an officer’s interaction with people with mental illness is an important part of his/her job and not a pain in the neck responsibility forced on them by the federal government.

- b. Policy and training must take into account behaviors that are the product of mental illness in all encounters, including considering the subject's mental and emotional state before using force. Officers must have the tools to identify when a person in crisis has a mental illness in order to appropriately adjust their approach and response.
- c. For individuals who are perceived as not being dangerous to others, but are at risk of harm to self, officers should only practice strategic disengagement in consultation with a mental health professional and should attempt to develop a plan for when and how to hand off responsibility. Officers should have the discretion to consider mental health as a condition permitting alternative means of securing the individual.
- d. The City shall create a secure 24/7 crisis triage center within the City to allow officers get an individual in crisis to a mental health professional quickly and without authorization from the county or otherwise.
- e. Examine the use of defensive gear such as mattresses and padded armor to defend against knives and apparently violent people in psychiatric crisis.

4. Collaboration with Project Respond

- a. The City should better inform mental health care consumers and their families about available resources, including the crisis hotline and Project Respond. Project Respond should be utilized to address mental health crisis calls that do not involve a risk to community safety. The City should encourage direct calls to Project Respond and permit Project Respond to decide which calls to take and which to refer to the police. Before doing so, the City should carefully consider appropriate protocol and staffing and evaluate the efficacy of Project Respond's responses to service calls, and have a backup plan should calls come in that Project Respond does not have the capacity to address.

EMPLOYEE INFORMATION SYSTEM (EIS):

1. Ensure that patterns found in EIS can be used for counseling and discipline effective no later than July 1, 2013.
2. As the DOJ notes, an effective EIS is a powerful tool that should enable PPB to identify officers whose at-risk behaviors exceed department guidelines, even if direct supervision of use of force incidents fail or are found to be within policy.
3. PPB should memorialize in its policy the Professional Standards Division's discretion to develop additional EIS triggers beyond the current trigger (officers who have used force in 20% of his or her arrests in the past six months, or who uses force three times more than the average number of uses of force compared with other officers on the same shift).
4. PPB will add definitive triggers to its EIS for uses of force, e.g., three uses of force in a month. A sudden uptick in uses of force within a shorter period of time should trigger the EIS.
5. No officer should reasonably rely on EIS intervention to avoid IAD investigation and the imposition of discipline for sustained wrongdoing. If there is any doubt on this point, we recommend that PPB immediately clarify by issuing an informative directive.
6. PPB shall revise its EIS to trigger supervisors whose units collectively use force disproportionately more than other units.
7. Triggered [EIS] information automatically goes through the chain of command.
8. PPB must train more than one member, as is the current number of members trained, to be proficient in the use of EIS.
9. Direct supervisors must evaluate their subordinates' EIS data annually.
10. Supervisors should utilize EIS data in evaluations.
11. In conducting evaluations, supervisors should meet with their subordinates to discuss positive aspects of their police work, their complaint history, if any, and to discuss any problems or concerns

officers may have concerning the department. The direct supervisors should memorialize evaluations, including any discussions in face-to-face meetings. Supervisor should then pass written evaluations through the chain of command, affording the opportunity for superiors to add comments. The written evaluations should be stored in the employee's training or personnel file. PPB should tie these evaluations into its promotion process.

12. The Auditor's Office shall provide regular reports on the status of the EIS and on independent analysis of police stop data.
13. Expand EIS to track supervisor and precinct activity and mandate participation.
14. The Auditor/PPB shall track the prosecutorial disposition of all arrests as one tool to identify possible trends in abuse of law enforcement discretion. EIS should track and oversight agency should regularly review the outcome of all arrests, paying particular attention to arrests where prosecutor failed to charge, or arrests that led to acquittals or dismissals of charges. Rate of these dispositions per officer should be measured and unusually high rate of arrests not leading to conviction should be investigated.
15. The PPB shall implement a "Quality Assurance" program to better identify, correct, and improve institutional practices through a system that is not based on determining blame, but based on finding and correcting errors.

MISCONDUCT INVESTIGATIONS: USE OF FORCE RESPONSE

1. Supervisor to the scene

- a. Following a use of force, supervisors and civilian investigators should be on the scene as soon as possible to ensure that a full inquiry of the circumstances of the force used by officers is conducted.
- b. Conduct on-site supervisory investigations of all uses of force, including contemporaneous public safety and investigatory statements subject to constitutional protections against self-incrimination.

2. After Action Reports (AAR)

- a. Supervisors must be accountable to their obligation to investigate and complete use of force reviews; otherwise they enable a weak and ineffective force management system.
- b. Supervisors shall reject inadequate AAR that lack detail to assess use of force.
- c. PPB shall revise the AAR process to include collecting forensic evidence, taking photographs, or audio and electronic reception of evidence. PPB shall revise its AAR policy to include a strong and effective monitoring system to ensure AARs are being timely completed and contain sufficient data for supervisors to adequately analyze uses of force. This analysis shall include:
 - i. Was the original stop, detention or subsequent arrest lawful?
 - ii. Was the type and amount of force used objectively reasonable and proportional to the resistance encountered?
 - iii. Was the type and amount of force related to a legitimate law enforcement objective the officer or the department was trying to achieve?
 - iv. Were efforts made to de-escalate the situation without using force?
 - v. Was the force reasonably decreased as resistance subsided?
 - vi. Was the force used consistent with generally accepted police tactics?
 - vii. Was the force used consistent with PPB training programs?

3. Investigate every use of force above un-resisted handcuffing

- a. Where a supervisor cannot resolve any factual discrepancies, determine the source of any injury, or determine the lawfulness of a use of force, the supervisor must refer the matter immediately and directly to his/her supervisor and for administrative investigation by the

- oversight body. Every level of supervision thereafter should be held accountable for the quality of the first-line supervisor's force investigation.
- b. Conduct focused reviews of any officers involved in disproportionately high number of use of force incidents to determine whether the officer needs an additional training or refer the matter for a disciplinary investigation. Supervisors whose officers are involved in disproportionately high amount of use of force incidents should be evaluated as to whether they need additional training or discipline.
 - c. The City shall test for use of controlled substances all officers involved in incidents that result in hospitalization or use of force, when there is individualized suspicion that the controlled substance may have influenced the use of force.

DEADLY & EXCESSIVE FORCE INVESTIGATIONS:

1. Criminal Investigations

- a. PPB shall clarify in its policy that administrative and criminal investigation shall run concurrently.
- b. PPB should consult with the DA, FBI, and/or United States Attorney's Office at the outset and throughout this bifurcated process and prior to compelling statements from officers. These policy changes should make clear that only compelled statements made in the face of the reasonable prospect of criminal prosecution are entitled to *Garrity* protection. PPB should also clearly set forth in policy that though IA may use criminal investigation material in appropriate circumstances, all administrative interviews compelling statements, if any, of the subject officer and all information flowing from those interviews must be bifurcated from the criminal investigation in order to avoid contamination of the evidentiary record in the criminal case.
 - i. The initial interview with officers involved in cases of serious injuries or deaths shall take place within twenty-four hours of the incident.
- c. Whether a criminal defendant is an involved officer or a civilian, PPB should have a policy in place to transmit potentially exculpatory material to criminal defendants. The PPB, the City Attorney and the DA shall work collaboratively to establish a methodology for the handling of exculpatory material, mindful of the bifurcated administrative and criminal investigations in cases involving officers as defendants. PPB shall memorialize in policy or procedures this agreed-upon methodology.
- d. **Independent Investigations**
 - i. Establish an independent prosecutor for all cases of possible police criminal conduct to avoid the inherent conflict of interest within the Multnomah County District Attorney's office. The independent prosecutor shall have access to all relevant records and files.
 - ii. The Chief of Police shall request an FBI review on all controversial cases involving possible civil rights violations.
- e. The City of Portland must support statewide legislation to open the grand jury process for officer involved shootings and deaths in police custody to greater public scrutiny, including the release of transcripts.
- f. The DA shall consider questioning the officer, subject to his or her ability to exercise rights to counsel and remain silent, to expedite the accurate resolution of the criminal investigation. ... PPB should not hinder investigation of a potentially criminal action with this officer-specific delay.
- g. The City shall take the position that, in reference to Section 61.2.1.3 of the police association contract, in the context of use of force incidents, "delay in conducting the

interview” will always “jeopardize the successful accomplishment of the investigation” and “criminal culpability” is always an issue.

2. Medical examination for all in-custody deaths

- a. City council should pass an ordinance requiring a medical examiner's inquest or other public airing of the facts by those involved where someone dies at the hands of the police.
- b. When an autopsy is conducted in police shootings and in-custody deaths, an independent autopsy shall be conducted.

3. Independent civilian oversight body authority to investigate

- a. The civilian oversight body must have the authority, staff, and funding to comprehensively review all records of open and closed investigations of serious injury due to police action and/or deaths while in police custody within one year of the incident, and make all findings public. The civilian oversight body shall explicitly be able to engage in administrative (non-criminal) investigations of these incidents.
 - i. Ensure that the civilian oversight body has authority to investigate specified more serious complaints, including shootings, deaths in custody, physical injury requiring hospitalization, racial profiling, illegal searches, conflicts of interest, and other "high emotion in the community" issues.
 - ii. The civilian oversight body must have the authority, staff, and funding to comprehensively review allegations of racial, sexual, socio-economic class, ethnic, and other harassment of the public by the Portland Police.
- b. Repair community distrust of use-of-force investigations (up to and including shootings and in-custody deaths).

COMPLAINT SYSTEM: INTAKE, INVESTIGATION AND CASE HANDLING:

1. Current System Must be Replaced: As described by DOJ, the current self-defeating accountability system must be abandoned and replaced with a strong, transparent, and integrated civilian oversight body. The following recommendations detail the characteristics of that system. Any specific reference to IPR, CRC, or any practice unique to the current system should not be taken as an endorsement of the current system.

2. When to investigate

- a. All allegations, which, if true would amount to a violation of policy, shall be investigated.
- b. The civilian oversight body shall only decline to investigate complaints based on clear criteria, rather than judgments based on incomplete information, particularly when the complaint is not referred to any other entity for investigation.
 - i. The IPR Director's discretion to dismiss complaints when "it is more likely than not that no misconduct was committed" shall be clarified or limited.
- c. The civilian oversight body shall investigate or actively participate in the investigation of all complaints of those with the rank of captain or higher.
- d. A case shall not be dismissed simply on the basis of complainant withdrawing the complaint, complainant is unavailable, or complainant pleading guilty.
- e. The civilian oversight body shall monitor all uses of force to ensure practice consistent with these standards and affirmatively enforce these standards when force is used in an inconsistent manner.
- f. **Decision to mediate**
 - i. Mediation should be used to reach mutual agreement and should only used based on objective criteria and that the parties fully understand how mediation will be conducted and the potential outcomes.

- ii. Mediation policy shall contain objective criteria to determine which matters are appropriate for mediation. Complaints of excessive force should always be subject to investigation and a finding.
- iii. Formalize/mandate what is current practice to not use mediation in serious use-of force cases. Cases involving use of force that result in hospitalization should always be investigated and, as such, should not be eligible for mediation.
- iv. Mediations shall not be offered for complaints involving use of a racial, ethnic, gender or sexual-orientation-related epithet; or in cases of officers with a pattern of misconduct.

3. Which body should investigate/case handling

- a. Ask every complainant if they would prefer to have IPR or IAD investigate their complaint and document the response. This data may help measure faith in the system.
- b. Ask opinion on complaint-handling preference. At intake, when applicable, the IPR will record the complainant's opinion in response to this question: If the choice were the complainant's, would he or she prefer to have a full investigation or to have the complaint handled through the non-disciplinary complaint (or Service Improvement Opportunity) process?
- c. Establish an avenue for appeal or reconsideration for cases involving quality of service or minor rule violations. Allow community members to appeal dismissed complaints or low-level, "service improvement opportunity" complaints against officers to the CRC or its replacement.

4. The oversight body must have more independence and authority

- a. The oversight body shall be empowered to review and change policies relating to the use of lethal force.
- b. To the extent IPR exists going forward, grant the IPR more independence. Add an attorney not connected to the City Attorney's office and add civilian investigators. IPR needs to be consistently and objectively independent, without delays because the resulting findings could impact a civil claim against the City.
 - i. Make it easier for the Auditor to hire outside counsel at the Auditor's discretion. If it is determined that the above change cannot occur without a Charter change, then such a change should be supported to enable it.
- c. IPR should not only have the power to conduct primary investigations (from time zero) but should *exercise* this power. IPR should be provided the structure, budget and resources to conduct a primary investigation that is truly independent.
- d. Ensure future appointed review board directors will continue to be fully sympathetic to the purpose of independent police review.
- e. Diversify the pool of investigators at the civilian oversight body to include 1) People with investigative skills who have not been police officers in general or Portland officers and 2) A greater demographic (racial, ethnic, cultural) diversity and competency.
- f. The Auditor shall keep a running record of all recommendations that have been made for improved PPB practices (from any source), and include this record in public reports.

5. Streamline process for investigating allegations of misconduct; address timeliness

- a. Adopt policies and practices to streamline the investigation of all allegations of officer misconduct to increase efficacy of corrective action, including a mandate to address investigative inadequacies identified by the oversight body.
- b. The PPB, the City Attorney, and IPR must work collaboratively to expedite the handling of the backlog of complaints awaiting an initial investigation.

- c. PPB shall simultaneously broadcast the [Service Improvement Opportunities (SIOs)] from IA down the chain of command to the Sergeant, and the Sergeant's concomitant response directly to IA, with copy to the chain of command.
 - d. Require reporting on reasons for long investigations.
 - e. Mandate investigative resource levels that are sufficient to ensure all investigations can be completed in a timely manner.
 - f. Give complainants the right to waive the time limits and to receive written notification of time extensions.
 - g. Conduct anonymous integrity checks with dummy complaints submitted to the oversight body.
 - h. Require investigating body to update complainant every 30 days of case status and notify him/her of the result within 10 days of decision.
 - i. Post decisions online within 10 days of decision, omitting personally identifiable information about complainants and officers.
- 6. Access to records**
- a. Make it easier for complainants to get publicly available records. The oversight body and PPB must establish an interagency agreement that would allow the Director discretion to release case-specific records that are already generally available to the public to complainants or their representatives.
- 7. Testimony**
- a. Oversight bodies shall have authority to compel testimony of anyone involved in a police action. Oversight bodies shall have the authority to directly interview police officers in administrative investigations.
 - b. Officer witnesses will be evaluated with the same weight and by the same standard as lay testimony. Witness statements will not be deemed not credible due to witness's connection to the complainant or because witness has a criminal record.
 - c. Precinct baseline force encounter data described above (in "Evaluation of Weaponry and Use") should be considered in reviews of alleged misconduct as a factor in the assessment of the credibility and weight of testimony and evidence presented.
- 8. Conduct further independent evaluation of the complaint system:** As a bifurcated system moves toward a more independent process, there shall be periodic expert reviews.
- 9. Findings of investigations:** PPB and the oversight body shall adopt uniform standards on the possible dispositions for complaints.
- a. PPB shall add the additional finding of "unfounded." Develop categories of findings regarding the specific allegation that includes four categories, instead of the current three. Unfounded/Not supported; Exonerated/In policy; Insufficient Evidence; and Sustained/Out of policy. All of the above shall be qualified by "With debriefing."
 - b. Ensure that findings indicate a separate rating regarding the overall incident that would identify the presence of any policy-related issues as that term is defined in Portland City Code (as opposed to allegations regarding a specific Bureau member). Recommended categories: Communication issues, Management issues, Training issues, Equipment issues and other policy-related issues.
 - c. Replace the term "service improvement opportunity" with the term "non-disciplinary complaint."

REVIEW BOARDS: GENERALLY, AND HEARINGS PROCESS

1. **Overarching principle:** To the extent the current system is retained, the process for reviewing initial findings and carrying out the hearings process must be changed in the ways outlined below.

2. Citizen Review Committee (CRC)

- a. Allow CRC to review proposed allegations prior to investigation to ensure they match the complainant's concerns and align with Police Bureau policies.
- b. **Standard of review:** Change the definition of "supported by the evidence" from the "reasonable person" standard defined in 3.21.020 to a "preponderance of the evidence" standard.
- c. Evidence developed by CRC - inculpatory or exculpatory - shall be included in the record of the incident, even if remand to IA is then required to fully develop the evidence.
- d. Ensure CRC may hold hearings on all appeals requested by complainants or Bureau members without delays associated with concerns that the outcome of their review could have an impact on a civil claim against the City.
- e. **Compel testimony:** Permit CRC to compel officer testimony and the testimony of other witnesses at appeal hearings.
- f. Grant City Council the power to hear new evidence.
- g. Increase CRC authority to send complaints back for further investigation, to re-categorize allegations, and to review dismissed and declined complaints.
- h. Increase size of CRC from 9 to 11 members.
- i. Provide dedicated staff to support the CRC. Change Portland City Code 3.21.090.A. to include a new numbered paragraph that would read: Direct committee staff. To direct a staff person assigned to the Committee to provide staff support for the powers and duties outlined in this chapter.
- j. Revise the CRC member selection process to further improve transparency and inclusiveness.
- k. IPR & CRC shall be provided drafts of Police Bureau policies that relate to Bureau member interactions with the public (or to the investigation of such interactions).
- l. Ensure a right of complainants to have advocates in the complaint process. Advocates should have access to all records pertinent to the case.

3. Police Review Board

- a. Civilians shall have access to PRB meetings.
- b. Require prompt explanation for decisions that differ from the Police Review Board's recommendations. Require the Chief or Commissioner to explain in writing, publicly, the basis for his/her decision and to do so in 30 days.
- c. Do not permit the supervising Reporting Unit (RU) commander to vote as a member of the PRB in cases of deadly force, in custody death, or physical injury requiring hospitalization. At such stage, the RU Commander would have already weighed in on whether the officer is in or out of policy, so it is inappropriate for him/her to vote on the Board. It is that Commander's decision that is being discussed and decided.
- d. Add another citizen member to PRB for use-of-force incidents.
- e. Clarify the PRB process to ensure that voting PRB members have access to all information pertaining to the incident.

DISCIPLINE:

1. Discipline

- a. The PPB shall severely discipline any officer involved in failing to follow Bureau policy or taking actions unnecessarily or unwisely leading to the use of deadly force, and encourage any such officer to no longer work for the Police Bureau.
- b. The CRC or its replacement shall have the authority to recommend whether discipline should be imposed on an officer and what discipline is recommended.

- c. Require more specific reporting on the relationship between sustained findings and discipline. The IPR annual report shall provide additional, non-officer-specific information about the scope of discipline imposed for specific categories of sustained findings and separate rankings.
- d. Require reports on the "mitigation" process which includes how and whether recommended discipline for cases that involve shootings, deaths in custody, or use-of-force injury requiring hospitalization has changed in mitigation.
- e. Cases involving use of deadly force or in-custody death will not be arbitrated. In all other cases that go through arbitration, the City has the final authority over a discipline decision.
- f. The City shall implement and rely upon the "clean slate" provision of Oregon law, stating that regardless of how discipline may have been meted out in the past a new Chief can do so with his/her own discretion, to facilitate its ability to discipline members of PPB.
- g. The City shall take steps to remove Sergeants and any other police supervisors from the same bargaining unit as its police officers.

2. Discipline Process and Transparency

- a. Discipline for sustained allegations of misconduct will be based on the nature of the allegation and defined and consistent, mitigating and aggravating factors, rather than the identity of the officer or his or her status within PPB or the broader community. PPB and the City will develop and implement procedures to ensure that discipline is fair and consistent.
- b. PPB will use a disciplinary matrix that:
 - i. Establishes a presumptive range of discipline for each type of rule violation;
 - ii. Increases the presumptive discipline based both on an officer's prior violations of the same or other rules;
 - iii. Sets out defined mitigating or aggravating factors;
 - iv. Requires that any departure from the presumptive range of discipline must be justified in writing; and
 - v. Provides that PPB shall consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed.
- b. PPB and the City will establish a unified system for reviewing sustained findings and assessing the appropriate level of discipline pursuant to PPB's disciplinary matrix, in order to facilitate consistency in the imposition of discipline. All disciplinary decisions shall be documented, including the rationale behind any decision to deviate from the level of discipline set out in the disciplinary matrix.
- c. PPB and the City will develop and establish written policies and procedures to ensure that the City Attorney's Office provides close guidance to PPB at the disciplinary state to ensure that PPB's disciplinary decisions are as fair and legally defensible as possible.

COMMUNITY ENGAGEMENT AND OUTREACH

1. Diversity/Racial Profiling

- a. Policy and training shall mandate that PPB shall not profile based on race, ethnicity, or protected class.
- b. PPB shall continue to address racial profiling issue directly with the community and shall seek to expand opportunities for community engagement.
- c. PPB shall review the implementation of its 2009 PPB Plan to Address Racial Profiling.
- d. PPB shall continue to collect and track stop data and shall engage with the public concerning such data, in order to demonstrate its commitment to ongoing analysis and remedial efforts to address allegations of biased policing.

- e. PPB should broaden the data point collected to specifically include stops made by officers that are considered “mere conversations” under existing policy. Currently, such data is not recorded leaving a hole in the ability of both the police and the public to better understand officers’ actions and the way in which officers interact with the public.
- f. PPB shall use the EIS system to track complaints that officers and/or units engage in racially discriminatory policing.
- g. PPB should adopt a policy that prohibits officers from conducting a consensual search of a person who is not under arrest unless the person is asked to consent to the search and told that he/she has the right to refuse the request to search.

2. Training and Discipline

- a. PPB shall conduct a department-wide intensive cultural sensitivity and competency training with immediate emphasis on Gang Enforcement, HEAT, and any other specialty units.
- b. This intensive and comprehensive cultural diversity and unlearning racism training shall be approved by members of communities vulnerable to police abuse. This will include training officers to engage in respectful conduct towards communities of color, ethnic minorities, the poor, and sexual minorities. This training will happen prior to graduation from police academy and followed by two weeks annually of advanced cultural diversity training.
- c. The PPB shall immediately, internally address harassment and end racial profiling that occurs during stops, intervention and patrol, in part by training officers to respond only to suspicious or criminal behavior, and not to race or appearance. Officers who are found to be racially profiling will be disciplined. E.g., create and enforce strict policies for when officers interact with individuals with disabilities.
- d. Cultural training shall include a "homeless immersion" and unlearning bias against people of low income.
- e. Institute fines and bans on overtime and outside work as possible deterrents to be imposed in response to biased policing practices.
- f. Deter “contempt of cop” cases (police conduct driven by retaliation in response to civilian’s attitude).

3. Information Sharing and Gathering

- a. Public statements by involved officers or representatives of the Bureau regarding shootings and deaths should be cleared through the Chief's office.
- b. Meetings involving the IPR/CRC and the PPB about use of force should be open to the public. Use of force data shall be published regularly with the goal of systemic change.
- c. The City must publicly air the facts and discussion surrounding controversial deaths at the hands of police. Family, community, and police representatives must have equal and adequate time to present a full accounting, with no distractions from the core issue of police use of force by diverting attention to mental health, homelessness or other unrelated issues.
- d. The City and the PPB shall release information much more quickly, concentrating on undisputed facts such as number of shots fired by police, number of times suspect was hit, names of involved officer(s), and name, age, gender and race of civilian(s).
- e. Make certain CRC review documents are available to the public.
- f. Any task force charged with policy review that includes members of IPR or the CRC shall be open to public observation.
- g. Require better reporting of policy recommendations received, and policy changes made, by PPB.
- h. Require Auditor to maintain and report on aggregate complaint data (including disposition and discipline) and include analysis with trends and concerns.

4. Hiring, Police Culture, Policy and Practices

- a. Require PPB officers to document each citizen contact, including the reason they stopped the subject, whether the subject consented to the conversation, whether the officer informed the subject that he/she had the right to decline consent, whether the mere conversation escalated further, and demographical information about the subject. Require that supervisors conduct timely reviews of this data.
- b. Require policy and training on how and when an officer initiates contacts with citizens: As the DOJ has found, officers tend to blend the distinction between initiating a "mere conversation" and a Terry stop.
- c. Require PPB to develop a community engagement and outreach plan, with the goal of creating robust community relationships and sustainable dialogue with Portland's diverse communities.
- d. Ensure that PPB officers, not just the executives, appreciate the far reaching implications of individual officer's actions on the organization and the perceived us-against-them mentality.
- e. PPB must cultivate community trust by providing incentives for its officers to maintain residency in the city they police.
- f. Ensure that PPB reflects the diversity of the communities being served.
- g. The Bureau must involve community members in developing police training and policy.
- h. All candidates applying for employment with PPB shall undergo psychological examination by a member of a culturally competent and diverse group of psychologists.
- i. Hiring should be done to increase the diversity of PPB by gender, race and ethnicity. At the same time the culture of the police must be changed to end the "blue wall of silence." PPB will adopt a whistleblower protection policy.
- j. Enhance efforts to recruit minority officers and those with high cultural competency.
- k. The City must fund a budget upgrade for Community Policing.
- l. Invite an outside study including diverse members of the community and implement a plan for changing the culture of the Portland Police Bureau that leads to "us vs. them" thinking and the "blue wall of silence."

MONITORING, REPORTING, AND IMPLEMENTATION OF DOJ AGREEMENT

1. Selection of a Monitor

- a. DOJ, the City, and community stakeholders shall jointly select a Monitor with police accountability expertise, who shall review and report on the City and PPB's implementation of the agreement.
- b. In the interest of expediting the selection and contracting process for the Monitor, the City and the DOJ shall be exempt from local contracting procurement regulation and all such regulations shall be considered waived for this purpose, but efforts will be made to hire bearing in mind equity principles of the City.
- c. The Monitor may be allowed to hire or employ such additional persons or entities as are reasonably necessary to perform the tasks assigned to him/her by the agreement. The Monitor must submit a notification to the City, DOJ, and community stakeholders, stating the reasonable necessity for the employment and a proposal for their use. If the City, DOJ, and community stakeholders agree to the Monitor's proposal, the Monitor is authorized to hire such persons or entities.

2. Duties of the Monitor

- a. The Monitor shall be an agent of the Court and subject to the supervision and orders of the Court. The Monitor shall not, and is not intended to, replace or take over the role and

duties of any City or PPB employee. The Monitor may not modify, amend, diminish or expand his or her duties under the agreement.

- b. The Monitor shall track the substantial compliance of the City and the PPB in implementing the agreement. The Monitor shall provide the parties technical assistance regarding compliance with the agreement and may recommend policy changes directed toward compliance. In monitoring the implementation of the agreement, the Monitor shall maintain regular contact with the parties and community stakeholders. The Monitor shall have the authority to identify issues of concern and alert DOJ to them.
- c. To facilitate its work, the Monitor may conduct on-site visits and assessments without prior notice to the City and PPB. The Monitor shall have access to all necessary individuals, facilities, and documents, which shall include access to agreement related trainings, meetings, and reviews, such as critical incident reviews, use of force review boards, and disciplinary hearings. PPB shall notify the Monitor as soon as practicable, and in any case within 12 hours, of any critical firearms discharge, in-custody death, or arrest of any officer.

3. Reporting by the Monitor

- a. The Monitor, within 120 days of selection, shall file a public report detailing the City's compliance with and implementation of the agreement. The Monitor shall continue to file quarterly public reports until after the City and PPB have been in substantial compliance with the agreement for 2 years.
- b. DOJ, the City, and community stakeholders shall have an opportunity to identify and correct factual errors in Monitor reports.
- c. The City and PPB shall provide the Monitor and the DOJ with full and unrestricted access to all PPB and City staff, facilities, and documents (including databases) that are relevant to evaluate compliance with the agreement, except any documents protected by the attorney-client privilege and/or work product doctrine.
- d. Should the City decline to provide the Monitor or DOJ with access to a document based upon an attorney-client privilege and/or the work product doctrine, the City shall provide the Monitor and the DOJ with a log with sufficient detail describing the document.

4. Length of Monitoring Period

- a. The Monitoring period shall be a minimum of 3 years. The decree should ensure that there are at least 2 years of Monitoring after substantial compliance has been found.

5. Community Involvement

- a. The Monitor must meet with a community stakeholder group periodically, but no less than monthly. The community stakeholder group shall also have an opportunity to review training modules prior to their adoption.
- b. Publication of the Monitor's compliance reports must include posting on the City's public website and include a mechanism to receive public feedback online.
- c. The Monitor must annually present his/her findings concerning compliance with the agreement to PPB and the community in settings that allow officers and the community to ask questions and comment on the findings.