



**Testimony of Kimberly McCullough, Policy Director
Concerning Portland City Council Item No. 892
August 9, 2017**

Mayor Wheeler and Council Members,

The American Civil Liberties Union of Oregon¹ appreciates your consideration of our testimony concerning a proposed ordinance to adopt new Post Deadly Force Procedures for Portland Police Bureau.

Although it does not appear to be posted on today's city council agenda, we understand that a revised ordinance is under consideration that would differ somewhat from Item No. 871 which was considered by this body on August 3rd of last week. We understand that the revised ordinance would authorize concurrent criminal and administrative investigations, including prompt internal affairs interviews of the officer, with both investigations conducted in a manner that preserves and protects the constitutional rights of the involved officer.

We submit this testimony to thank City Council for considering such a revised ordinance—which would be a significant improvement from Item No. 871 as originally introduced—but also to express concern that the revised ordinance still does not get us as far as we advise. In particular, the revised ordinance gives the Chief of Police and the Police Commissioner, in consultation with the City Attorney, to have the discretion to defer an administrative investigation until after the criminal investigation is completed “where circumstances suggest such deferral is warranted in a particular case.”

Allowing for discretionary delay of administrative investigations causes us great concern, as it creates significant ambiguity about what will actually occur when a deadly force incident occurs. We understand that the City Attorney and this body believe there are potential ambiguities in the law, and we encourage whatever actions the City feels it must take to clear up such ambiguity—including seeking a court determination if possible. However, we are very concerned that this discretionary exception will be utilized in a situation where it is actually unwarranted, hindering an administrative investigation when the public deserves swift action to seek answers and accountability.

Based on this concern, we encourage you to remove the provision allowing for discretionary delay of the administrative investigation from the revised ordinance. Thank you for your consideration of our testimony. Please feel free to reach out if you have any questions, concerns, or would like to discuss this further.

¹ The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 23,000 members in the City of Portland and over 44,000 members statewide.