



U.S. Department of Justice

Civil Rights Division

*Special Litigation Section - PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

March 21, 2003

Mr. Gary Wood
Corporation Counsel
City of Portland
389 Congress Street
Portland, ME 04101

Re: Investigation of the Portland, Maine Police Department

Dear Mr. Wood:

As you know, the Civil Rights Division is conducting a pattern or practice investigation of the Portland Police Department, pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. In January 2002, Police Chief Michael Chitwood sent the Division a letter requesting a thorough investigation of the police department's policies and practices. As an initial matter, we would like to thank you, Chief Chitwood, former Mayor Karen Geraghty, City Manager Joseph Gray, and the men and women of the Portland Police Department (PPD) for the considerable cooperation and assistance we have received since the beginning of our investigation. We appreciate the City's commitment to improving police practices in Portland, and we commend the PPD's willingness to review, analyze, and revise its policies and procedures where needed.

In addition, we recognize that the PPD has planned and begun to implement significant organizational changes within its department. Many of these changes, like the department's 10-point plan to increase supervisory accountability and review of police practices and procedures, are positive ones, and we are hopeful that PPD practices will continue to improve as our investigation progresses. We have reviewed the PPD's plans for these changes in conjunction with our investigation, and, at several points in this letter, we offer recommendations for building upon these reform efforts.

Since our investigation began last year, we have reviewed a significant number of documents relating to the management, service, and operation functions of the PPD. In addition, we have interviewed dozens of city officials, community advocates, and PPD officers, including high-ranking command staff. We have also spoken to representatives of the police unions in Portland, notably the Portland Superior Officers Association (PSOA) and the Portland Police Benevolent Association (PBA), and met with concerned Portland citizens. Based upon our interviews and our preliminary review of PPD documents, we have identified several areas of concern. These areas of concern are set forth in this letter, along with our recommendations for addressing those concerns.

Although we have made substantial progress in our investigation, important aspects of our fact-gathering process have yet to be completed, most notably completing our review of PPD Internal Affairs investigative files, Use of Control reports, and public order arrest reports. Therefore, this letter is not meant to be exhaustive, but rather focuses on significant concerns we have identified based on our review of the PPD's policies and procedures.

The issues identified below focus on the following areas: use of force, use of force reporting and review, searches and seizures, complaints and investigations, early warning systems, training, and organizational concerns. Please note that this letter is preliminary in nature and does not cover all aspects of our investigation. We will identify additional issues and provide additional recommendations to you as our investigation progresses.

I. USE OF FORCE POLICY

- **The PPD should revise its policies to clarify actions that constitute a use of force and to ensure that deadly force is only used in appropriate circumstances.**

A. Non-deadly Force

PPD's use of force policy does not provide a comprehensive list of actions that are considered uses of force. Although there are various sections in the policy that discuss an

officer's response to a suspect's actions, there is no central section that specifically describes the types of actions that can constitute force. In addition, the sections that discuss officer responses fail to mention uses of force such as takedowns and the pointing of a weapon at someone by an officer (even though "direct[ing] and aim[ing]" a firearm is listed as a reportable use of control elsewhere in the SOPs). Because PPD officers should be fully informed of the actions that may constitute a use of force, we recommend that the PPD's use of force policy include a provision that provides clear examples of the types of actions that may be considered force, including physical force. These examples should include actions such as takedowns and firearm brandishing. In addition, we recommend that PPD's use of force policy identify any uses of force that are prohibited or restricted to limited circumstances (e.g., choke holds).

B. Deadly Force

PPD's deadly force policy defines deadly force as "physical force that a person uses with the intent of causing, or which he knows to create a substantial risk of causing, death or serious bodily injury." SOP 1 III. A. Thus, under PPD policy, if a PPD officer does not intend or know that his actions may cause death or serious injury to a person, his actions apparently would not fall within the category of deadly force. Case law and policies regarding deadly force generally do not consider the officer's state of mind.¹ For example, the International Association of Chiefs of Police (IACP) model policy defines deadly force as "any use of force that is likely to cause death or serious bodily harm."² PPD's subjective definition of deadly force creates a concern that PPD officers may be using deadly force in situations where only non-deadly force is warranted.

PPD's deadly force policy also does not identify strikes to the head with impact weapons as a use of deadly force. See SOP 1 VI. E. Due to the possibility of death or serious injury from the delivery of strikes or blows to the head, we

¹ See Graham v. Connor, 490 U.S. 386, 397 (1989) ("[T]he question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.").

² IACP National Law Enforcement Policy Center, "A Compilation of Model Policies, Volume I."

recommend that PPD's policy be revised to reflect the potential deadliness of such uses of force.

- **The PPD should fully develop a use of force continuum.**

We were informed during our interviews with PPD command staff that the PPD utilizes a use of force continuum. Based on our review of the department's SOPs, it appears that the PPD considers the basic guidelines in SOP 1 VI. C to constitute such a continuum. While these guidelines for an officer's response to a subject's actions are useful as a starting point, additional detail and specificity are needed to determine appropriate officer responses to the actions of the subject. Thus, we recommend that the PPD expand these guidelines into a complete use of force continuum. When properly designed and implemented, a use of force continuum is a fluid and flexible policy guide. Many major city police departments employ a use of force continuum because it provides a useful tool in training officers to consider lower levels of force first, which protects the safety of both the officer and the civilian. Moreover, a full use of force continuum would emphasize that officers' presence, verbal commands, and use of "soft-hands" (using hands to escort rather than control subjects) can often be effective alternatives to more significant uses of force. We would be happy to provide examples of use of force continuums upon request.

- **The PPD should include its "find and bark" policy in its SOPs and eliminate undefined terms from its canine policy. It should also provide more guidance to its officers regarding when canines are to be deployed.**

PPD's canine policy does not specify whether it has a "find and bite" policy (which allows dogs to bite upon locating the subject) or a "find and bark" policy (requiring a dog to bark, rather than bite). According to canine unit supervisors, the PPD's policy is "find and bark." We recommend that the PPD explicitly state in its SOPs that it has adopted a find and bark policy. A find and bark policy usually prevents canines from biting subjects in situations in which such force is not necessary to effect an arrest or protect the safety of officers or civilians.

Although PPD's canine policy requires officers to announce during building searches that a canine is about to be deployed, the policy does not require that officers allow the suspect time

to respond to the announcement before the canine is released from its leash. In addition, the PPD's canine policy does not address the tracking of suspects or missing persons. We recommend that the PPD revise its policy to allow a sufficient interval between the announcement and deployment for subject surrender, absent exigent circumstances. We also recommend that the PPD's canine policy specify the procedures to be followed when tracking suspects or missing persons, and emphasize in its policy that during these searches, the canine should remain on a leash in order to provide a measure of safety to the person being searched.

II. USE OF FORCE REPORTING AND REVIEW

- **The PPD should revise its use of force reporting forms to clarify terms and to ensure that all uses of force are reported.**

PPD utilizes a Use of Control report to document uses of force by PPD officers. Under PPD policy, the Use of Control report must be completed whenever an officer uses physical or deadly force. See SOP 1 VI. G. The one-page Use of Control report requires officers to list pertinent information about the subject of the use of force, witnesses (including officers), the officers involved in the incident, and supply a short narrative about the incident. The report also contains check boxes that require officers to indicate the type of force used in a particular incident and the reason the force was used.

The check boxes listed on the Use of Control report mostly document general categories of force (e.g., "hands," "feet,"). Although the specific type of force utilized can be determined by reading the officer's narrative on the back of the Use of Control report, each year the Internal Affairs Unit compiles a report summarizing the types of force used based on the use of force check boxes. Because the information contained in the boxes are crucial to PPD review and analysis of the types and number of use of force incidents PPD officers are involved in each year, we recommend that the PPD revise these boxes to clearly indicate the type of force used in each incident. This change will allow the PPD to better track and identify force patterns through analysis of specific uses of force such as defensive tactics or punches, as opposed to general force concepts such as "hands" control.

In addition, during our interviews with PPD command staff we

were informed that officers are not required to report "restraining force" or certain other types of physical contacts with citizens such as takedowns. We recommend that the PPD require officers to report all physical acts that impose any degree of force greater than unresisted handcuffing, including takedowns and "restraining force." This would ensure that all uses of force are reported and analyzed.

- **The PPD should adopt a policy requiring all officers, including witnessing officers, to promptly report uses of force.**

In our interviews with PPD command staff we were informed that all officers who engage in or witness a use of force must complete a Use of Control report. However, the requirement that witnessing officers must complete a Use of Control report is not included in PPD policy. To ensure that witnessing officers are fully aware of the command staff's expectation that they will separately complete a Use of Control report, we recommend that PPD policy clearly set forth the PPD's requirements for officers who witness force incidents.

- **The PPD should investigate all uses of force.**

According to our interviews with PPD command staff, once an officer completes a Use of Control report, a supervisory officer (usually the officer's immediate supervisor) reviews the report for accuracy and attaches a supplemental paragraph detailing his assessment of the incident. The Use of Control report is then forwarded to the officer's Shift Commander, who makes an initial determination regarding the appropriateness of the force used. Next, the report is reviewed by the chain of command, including the Chief of Police.³ The Chief of Police makes a final determination regarding the force used. Finally, the Use of Control report is forwarded to PPD's Internal Affairs Unit for filing and further analysis. See SOP 1 VI. G. 9. Although the

³ Although officers within the chain of command are authorized to order an immediate investigation into questionable use of force incidents, usually, in reviewing the Use of Control report, the chain of command only makes a recommendation as to whether the force incident should be investigated. The final determination regarding the force used and any request for a subsequent Internal Affairs investigation is typically made by the Chief.

supervisory officer may question the officer about the force used, we were informed by PPD command staff that the supervisory officer typically does not interview or take statements from external witnesses regarding the incident.

Due to the importance of identifying and tracking force issues within the department, use of force incidents should be fully investigated by the supervisory officer. The supervisory officer should interview both the officer involved in the incident and any witnessing officers. The supervisory officer should also interview the subject of the alleged force. A full investigation of all uses of force is recommended for several reasons. First, it ensures that the PPD has the relevant information needed to determine the propriety of all uses of force. In addition, a detailed investigation allows higher ranking staff to review a complete investigative report and determine whether any issues were overlooked by the supervisory officer. The current format, with its limited investigative information, encourages command staff to "rubber-stamp" the supervisory officer's determinations instead of independently assessing the propriety of the officer's conduct. Finally, full use of force investigations are necessary because the current system of force reporting has not proven effective in tracking force issues within the department. During our interviews, PPD staff and plaintiffs' attorneys informed us that a number of uses of force that eventually resulted in lawsuits never triggered internal investigations, thus implying that the Use of Control reports are not being scrutinized properly.

The PPD has created a Use of Force Review Committee to review and analyze all Use of Control reports that have been reviewed by the Chief and subsequently filed with the Internal Affairs Unit. However, according to PPD policy, the committee only meets "periodically" to review Use of Control reports. In addition, we were informed by PPD command staff that the committee meetings are very informal and that the committee has not established any criteria or guidelines to govern the review of the reports.

III. SEARCHES AND SEIZURES

- **The PPD should revise its search and seizure policy to require mandatory reporting of certain categories of field stops.**

Under PPD policy, an officer may complete a field interview card whenever the officer stops a suspicious person, completes a field contact, field stop, or stop and frisk, or comes in contact with a known offender. See SOP 41 V. C. 4. The policy does not require the officer to complete the field interview card, but allows the officer to use discretion as to whether a card should be completed for a particular incident. The field interview card captures the following information: officer name and badge number; date, time, and location of the stop; a general description of the person involved in the stop; the reason for the stop; identifying information about the vehicle involved in the stop; and the signatures of the officer and immediate supervisor.

Once completed, the cards are recorded in a field interview database prepared by the department. Id. The database is then made "available" to the department's Patrol and Detective Divisions. Id. The policy does not describe how often or under what circumstances the database is reviewed by Patrol and Detective officers, nor does it indicate exactly how the database is to be utilized.

We recommend that PPD adopt a consistent policy that specifies when officers are required to complete field interview cards. Such reports should be required at least for all stops that result in searches and any other intrusive field activities such as high risk vehicle stop procedures, and are not the subject of another police report. The cards should capture information about whether a search or frisk of the subject occurred, and if so, whether any weapons, evidence, or contraband were found; and whether the individual involved in the stop was warned or cited, and if so, the charges. This would enable the PPD to obtain a more accurate picture of the department's patrol activities. In addition, we recommend that Patrol Division sergeants and lieutenants regularly review the field interview cards of subordinate officers to ensure that field activities are being reported as required and documented properly. Finally, we recommend that the Patrol Division captain conduct monthly audits of the information contained in the field interview database to determine if the stops, and any frisks or searches performed, were lawful, and that the findings of this audit is shared with the training sergeant and Internal Affairs. These procedures would help to ensure that improper or discriminatory searches and seizures are addressed through appropriate corrective action and discipline.

IV. COMPLAINTS AND INVESTIGATIONS

- **The PPD should clarify the distinction between formal and informal complaints and create a uniform system for investigating all complaints.**

Under PPD policy, administrative complaints regarding possible officer misconduct are investigated either formally or informally. See SOP 52 V. Complaints are classified as "formal" and investigated by the department's Internal Affairs Unit if, among other things, the complaint alleges a "serious violation of the Departmental rules, regulations, or procedures." SOP 52 V. A. 4. Complaints are classified as "informal" and informally investigated by a supervisory officer if "the alleged conduct is not a serious violation of Departmental rules, regulations or procedures and does not indicate a pattern of repeated misconduct." SOP 52 V. B. 2. Although informal complaints are documented, through our interviews with PPD staff we learned that the investigation of informal complaints typically consists of a brief conversation with the involved officer regarding the alleged conduct.

Formal complaints may result in a imposition of disciplinary or corrective action against the officer, and with the exception of oral reprimands, documentation regarding the disciplinary or corrective action taken is placed in the officer's file. See SOP 52 X. However, informal complaints, even if meritorious, do not result in disciplinary action due to their informal nature and are not included in the officer's file. See SOP 52 XIII.

The PPD's current complaint system raises concerns because the policies do not explain what constitutes a "serious" violation of departmental policies and procedures. As a result, intake officers are left to make their own subjective determinations about whether a complaint may constitute a "serious" violation of PPD policies. This raises concerns not only about consistency and fairness, but also about potentially significant misconduct being handled informally.

We recommend that the PPD formally investigate any alleged conduct that would constitute a violation of PPD policy. This would ensure that allegations of significant misconduct such as excessive force or illegal searches and seizures would be investigated formally, as well as significant policy violations

such as failing to file a Use of Control report. Complaints about conduct that would not constitute violations of PPD policy (such as complaints about the merits of parking tickets) or requested clarifications of PPD policies and procedures may be classified as informal and investigated informally so long as they are documented.

- **The PPD should change aspects of its complaint process that have the potential to discourage the filing of complaints and to impair the effective tracking and resolution of complaints.**

PPD policy states that the on-duty Patrol Shift Commander (or another supervisory official in the event that the Shift Commander is unavailable) is primarily responsible for conducting intake of all administrative complaints, both formal and informal. See SOP 52 VI. A. Under PPD policy, the Shift Commander is permitted to turn away complainants who demonstrate "inappropriate" behavior during the intake process. See SOP 52 VI. B. The policy does not clearly define what constitutes "inappropriate" behavior, but it indicates that such behavior could be interpreted as hostile, irrational, or intoxicated conduct. Id.

We recommend that the PPD discontinue its current policy of turning away complainants who demonstrate "inappropriate" behavior. Such a categorization is vague. For example, a person who is upset about an alleged unlawful search incident may be deemed "hostile" and asked to leave the department. Persons who initially are denied the ability to file a complaint are unlikely to return to the police department later to re-file their complaint.

The PPD also utilizes a complaint form that encourages officers to give an assessment of the complainant's mental state. On page five of the formal complaint form, officers are asked to document whether the complainant is coherent, composed, confrontational, or intoxicated. This encourages PPD officers to make a subjective determination about the complainant's mental state. Such a judgment may intentionally be used to protect an officer who engaged in misconduct. In addition, capturing such subjective information may provide the investigating officer with an opportunity to be dismissive of the complainant. We recommend that the PPD eliminate its policy of reporting an assessment of the complainant's mental state at intake.

Finally, we recommend that the PPD review all of its investigative practices to identify any others that may discourage the filing of citizen complaints or inappropriately direct people to the informal complaint process and create policies to address these concerns. We recommend that the PPD adopt a policy that explicitly prohibits any conduct that would tend to discourage a citizen from making a complaint and discipline officers for violating the policy.

- **Supervisors should receive appropriate training in handling and adjudicating complaints.**

We recommend that all supervisory staff charged with accepting and investigating complaints be given appropriate training and guidance from the PPD. Currently, there is one sergeant working full time in Internal Affairs and one sergeant working part time. The part time sergeant is currently being mentored by the full time sergeant and had no prior investigative training before being assigned to the Internal Affairs Unit. In addition, it appears that the lieutenants and Shift Commanders charged with conducting intake and investigating informal complaints have not received any sort of training or guidance on complaint investigation. We recommend that all PPD officers charged with handling citizen complaints, whether conducting intake or investigating complaints, receive specialized in-service training before beginning intake or investigative responsibilities. The training should focus on investigative and interview techniques for formal complaints, including examining and interrogating witnesses; identifying misconduct even if it is not specifically named in a citizen complaint; ethics; integrity; professionalism; the factors to consider when evaluating complainant or witness credibility; and the appropriate burdens of proof (*i.e.*, preponderance of the evidence). The training should also clarify the limited circumstances in which informal complaints are appropriate, and discuss the methods for investigating those complaints. We note that one potential resource for the PPD in establishing and improving such training programs may be the long-standing training and grant programs operated by other components of the Department of Justice, such as the Office of Justice Programs. While these programs are completely separate and independent of the Civil Rights Division's investigations, we would be pleased to provide you with contact information for exploring the availability of such programs.

V. EARLY WARNING SYSTEMS

- **The PPD should continue to implement its Early Warning System and enhance the system's ability to identify patterns of problematic officer behavior.**

An Early Warning System (EWS) is a relational data system, usually computerized, for maintaining, integrating, and retrieving information necessary for effective supervision and management of a police department and its personnel. A police department can use EWS data regularly and affirmatively to promote best professional police practices, accountability and proactive management; to manage the risk of police misconduct and potential liability; to evaluate and audit the performance of officers and units; and to identify, manage, and control at-risk officers, conduct, and situations.

The PPD has developed a draft policy for an EWS, and has created a computerized Employee Review System (ERS) based upon this draft policy. The creation of the ERS is a positive step towards identifying, assessing, and remedying problematic behavior within the department. However, in our review of the PPD's draft EWS policy we noted several concerns and areas for improvement. First, the EWS draft policy contains several sections with lists of documents to be tracked, but does not include a section that clearly identifies all the information that will be contained in the EWS. In addition, the draft policy does not identify the triggers that would lead to an EWS report being generated on a particular officer. The draft policy only states that "[r]eports shall be generated whenever an employee has exceeded the threshold established by the Department." It appears that the EWS will use the triggers established in a number of documents previously sent to us regarding the department's 10-point plan.

We recommend that the PPD include a section in its EWS policy that comprehensively lists the information that will be contained in the EWS database. In addition, we recommend that the PPD's EWS policy clearly identify the type and number of incidents that will trigger an EWS review.

From our review of the draft policy and related documents, it appears that the PPD's EWS contains or will contain information on formal and informal complaints, Use of Control reports, handcuffing cards, civil lawsuits and notices of claims,

sick leave, calls for service, "no complaints," counseling reports, and commendations. PPD's EWS does not contain information on arrest reports completed by the officer, training history, referrals for administrative counseling or criminal arrests or charges lodged against the officer. In addition, it does not appear that the PPD's EWS will have a means of accessing all relevant information for incidents that are the subject of several reports or investigations.

We recommend that the PPD's EWS include information on arrest reports completed by the officer, training history, referrals for administrative counseling or criminal arrests or charges lodged against the officer. In addition, we recommend that the EWS have a method to cross-reference incidents that are the subject of several reports or investigations.

According to the draft policy and related documents, an EWS review is triggered whenever an officer has filed three Use of Control reports in 30 days, five Use of Control reports in 60 days, or 10 Use of Control reports in one year. An EWS review may also be triggered at the request of the department. Once an officer has been selected for an EWS review, a report is generated by Internal Affairs that details all Use of Control reports, handcuffing forms, formal and informal complaints, calls for service, sick leave, counseling reports, civil lawsuits, commendations, and "no complaints" pertaining to the officer within the past ten years. The officer's Shift Commander and immediate supervisor meet to discuss the report and determine if any corrective action is warranted. The Shift Commander's and supervisor's recommendations are then forwarded through the chain of command and implemented upon the Chief's approval. The effectiveness of the implemented recommendations is determined by monitoring the officer and drafting written reports on the officer's conduct on a monthly basis. Both the supervisory recommendations and the written monthly reports are included in the officer's EWS file.

It appears that the types of incidents that trigger an EWS review are too narrow, and that the time period is too short to give supervisors valuable information that, if received early, could identify potential problem officers before misconduct actually develops. Furthermore, the EWS report that is generated as a result of the triggers simply lists officer-related incidents and fails to provide the reviewing officers with any context or detailed analysis of the incidents. We recommend that

the PPD develop additional triggers for the EWS based on other types of incidents such as complaints or discipline, and that the PPD lengthen the time period for the accumulation of these triggers. We also recommend that the PPD consider utilizing peer reviews of the information contained in the reports by comparing complaints, use of control reports, and other pertinent information about a particular officer with similar information from other officers on the same patrol team, shift, or geographical patrol areas. In addition, the EWS policy should provide explicit guidance to supervisory officers reviewing EWS reports to ensure that patterns of possible misconduct are identified, analyzed, and addressed properly by command staff.

IV. TRAINING

- **The PPD should provide consistent and effective use of force and defensive tactics in-service training.**

According to PPD policy, the Police Officer Development Program (POD program) is the primary source of in-service training for PPD officers. Under the POD program, PPD officers receive annual training on a number of topic areas. Some of these areas, such as firearms and less than lethal weapons, are mandatory courses that officers must be trained on each year. Other areas, such as use of force and defensive tactics, are elective courses permitting officer discretion. Although the mandatory courses remain consistent from year to year, the areas covered in the elective courses vary at each in-service training.

In 2002, officers were required to take a three hour in-house course in defensive tactics and, in 2003, officers were required to attend a course on the same topic lasting one-half hour. Previously, training in use of force or defensive tactics was incorporated into other areas. For example, in 2001 received one hour of training on civil liability and one hour of training on revisions to the PPD's SOPs. The instructors incorporated instruction on use of force and defensive tactics within each of those training sessions.

We recommend that all officers receive general use of force and defensive tactics training on a regular, periodic basis. The training should focus not only on the types of force officers can use and when officers are legally justified in using such force, but also on verbal de-escalation and other tactics officers can use to avoid, or minimize, the use of force. In addition, we

recommend that such training include an interactive discussion of past use of force incidents and the appropriateness of the force used in those incidents. PPD officers also should receive instruction on the actual application of certain uses of force such as defensive tactics to ensure that the tactics are being administered properly. As part of this training, we recommend that the use of force training include both role playing and use of simulations.

- **PPD recruits should institutionalize recent changes in the field training program.**

Under PPD policy, all PPD recruits are required to attend a 12-week basic training program at the Maine Criminal Justice Academy (MCJA). See SOP 33 IV. A. In addition, PPD SOPs dictate that the recruits must participate in a five-week field training program. See SOP 33 IV. B. However, we have been informed that the field training program recently has been expanded to a four-phase program that lasts at least ten weeks. Recruits now receive one week of classroom instruction and nine weeks of field instruction. Field training officers evaluate recruits daily and supervisors evaluate recruits each week. The PPD should be commended for instituting these changes which should provide the expanded training, supervision, and evaluation necessary for recruits to obtain a clear sense of the service issues facing various geographical sections of the City, and to ensure that new recruits have received a significant amount of guidance and instruction regarding patrol functions. While the new training program greatly improves on the five week program, we note that the PPD has not yet incorporated the new field training regimen into its Standard Operating Procedures. We recommend that the PPD finalize and adopt a new policy to ensure continued implementation of its revised field training program.

- **The PPD should ensure that officers are fully trained on departmental policies.**

From our interviews with PPD officers and command staff, it appears that there are significant differences between practices required by key PPD written policies and the actual practices. For example, according to PPD policy, Division Commanders are required to review Use of Control reports and determine whether the force used was appropriate. See SOP 1 VI. G. 8. During our interviews, however, we learned that the officer's Shift Commanders actually reviews the Use of Control reports and

determines the propriety of the force used. In addition, during our interviews we were informed by certain officers that Use of Control reports must be completed within five days of the force incident; however, PPD policy dictates that the Use of Control Report be completed by the end of the officer's shift. See SOP 1 VI. G. 5.

These conflicting statements from line officers and command staff regarding PPD policies and procedures, indicate that either the policies are outdated or officers are unclear on the existing policy requirements. Currently, PPD policy requires that its policies and procedures be updated at least once each year, but there does not appear to be a mechanism to ensure that this occurs. We recommend that the PPD create a tracking mechanism to ensure that annual updates occur and that changes in policies have been communicated throughout the department.

- **The PPD should ensure that the in-service training program receives adequate training and fiscal support.**

In Fiscal Year 2002, the PPD allocated \$30,000 for outside instructors or training; however, pressed by budgetary concerns, the budget was eventually reduced to \$5,000. A police force of over 150 sworn officers requires more than a \$5,000 budget to maintain an appropriate in-service training program. We recommend that the PPD allocate sufficient funds to ensure that officers and support staff receive adequate training to perform their duties.

The PPD training supervisor is responsible for the administration of PPD's training program. The training supervisor's responsibilities include multiple tasks, such as developing and implementing training programs, scheduling in-service training, maintaining records on each officer's training history, and notifying personnel of required training. At present, no staff is allocated to assist the training supervisor with these duties. In addition, the current training sergeant has received little outside training. We recommend the allocation of additional personnel to ensure these multiple functions are executed effectively. We also recommend that the PPD consider providing the training supervisor and other training officers with more exposure to outside sources of training in order to introduce new ideas into the department. Again, as stated earlier, there are long-standing training and grant programs operated by other components of the Department of Justice, such as the Office of Justice Programs, that may be one

potential resource for the PPD in improving in-service training. We would be pleased to provide you with contact information for exploring the availability of such programs.

- **PPD supervisors and command staff should have more exposure to the policies, practices, and procedures of other police departments and training agencies.**

From our interviews with PPD staff, it appears that supervisors and commands staff officers have received limited exposure to the practices of other police departments. Greater exposure to the practices and procedures of other departments and training agencies would provide the PPD with access to new ideas and innovations. It would also provide a valuable mechanism for re-evaluation of its policies and practices in light of those used by other departments.

For example, PPD endorses the concept of "preventive patrol." Preventive patrol requires an officer, usually in a vehicle, to patrol a certain area to detect crime and to seek out suspicious individuals for questioning. Several studies, however, have rejected the preventive patrol model as failing in its goal to prevent crime. A philosophy of problem solving, incorporated in policies and practices of community policing and directed patrol in most departments, generally has replaced preventive patrol.

Exposure to the policies and practices of other departments could be achieved in many ways. For example, the PPD could send PPD supervisors and command staff on a more frequent basis to a greater number and variety of law enforcement conferences and training schools. The PPD also could seek to establish relationships in which its officers would train officers in other departments in exchange for training of PPD officers by officers from those other departments. The PPD could access local resources, including universities and colleges, technical colleges, and business groups, to train its mid-level supervisors in management functions and skills. Although financial constraints are always an issue, many policing institutes and training agencies offer discounted fees to police officials, particularly if the PPD offers to host conferences by such institutions. Further, the PPD could apply for grants to fund these training opportunities. The PPD should make a concerted effort to take advantage of cost-effective opportunities and alternative sources of funding whenever possible.

VII. ORGANIZATIONAL CONCERNS

- **The PPD should ensure that patrol officers have full information about their assigned areas and are supervised effectively by integrating more aspects of its Community Affairs Division into its Patrol Division.**

PPD police operations are handled primarily by two divisions: the Patrol Division and the Community Affairs Division. The Patrol Division consists of four patrol teams, which are responsible for conducting routine patrol services, and the Tactical Enforcement Unit, a unit primarily responsible for providing assistance and support to the patrol team as needed. The PPD's Community Affairs Division consists of the Traffic Unit, which reports and investigates traffic accidents; the Island Services Unit, which provides police, medical, and fire fighting services to the citizens of Peaks Island; and the Community Policing Unit, which provides community-oriented problem solving services to various areas of the City.

The Community Policing Unit, which is responsible for the department's community policing services, is comprised of ten officers. Five officers are assigned to Community Policing Centers in various Portland neighborhoods in order to address criminal activity and law enforcement issues in those areas. These officers are assisted in their work by Civilian Community Coordinators, who work out of the Community Policing Centers. The remaining five officers are assigned to the City of Portland's elementary, middle, and high schools. Two sergeants directly supervise the ten officers in the Community Policing Unit.

In contrast, officers within the Patrol Division are responsible for law enforcement in the entire city of Portland. Shifts in the Patrol Division are based on seniority, and according to PPD policy, first-line supervisors may supervise up to fifteen patrol officers at one time. The policy also states that in emergencies, the supervisory span of control may be extended to an even larger number of officers.

From our interviews with PPD officers, we learned that there was little overlap of the Patrol and Community Affairs Division's responsibilities, and minimal communication between patrol officers and community policing officers. For example, although

the Community Policing Unit covers the same geographic areas as the Patrol Division, and its duties include assisting patrol officers with calls for service, we were informed by PPD staff that such assistance from community policing officers rarely occurs. In addition, the Community Affairs Division's monthly community policing reports, which detail community-based issues and the measures the Division has taken to address these issues, are not distributed to rank and file officers within the Patrol Division.

Because of the lack of communication between the Patrol Division and Community Policing Unit, patrol officers often are not aware of the problems or concerns facing a particular community, even when community policing officers have gathered the information. Thus, patrol officers appear to rely almost exclusively on traditional enforcement methods when responding to a call for service instead of a problem-solving approach. Our interviews with community advocates indicate that over-reliance on these traditional enforcement methods leads to miscommunication and distrust between officers and citizens. In addition, patrol officers fail to receive the assistance they need from community policing officers in responding to calls for service, and patrol supervisors are hampered in their efforts to provide proper supervision and guidance to rank and file officers by the large number of officers under their span of control. The absence of full information, prompt back-up, or appropriate supervision can lead to officers finding themselves isolated in a potentially dangerous situation and resorting to more force than would be necessary. Similarly, these factors may contribute to an atmosphere of frustration among patrol officers that can enhance the likelihood of misconduct.

In order to promote effective policing and minimize the areas in which use of force may be necessary, patrol officers should be both concerned with enforcement and aware of neighborhood issues and the problem-solving measures endorsed by the community. Therefore, we recommend that the PPD integrate more aspects of its community policing program into its Patrol Division. Such integration could occur through the consolidation of the Community Affairs and Patrol Divisions, rotation of community policing officers into the Patrol Division, or regular meetings between the Deputy Chief of the Bureau of Operations and the heads of the two divisions.

In addition, to ensure that all officers are well informed of the department's community policing activities, we recommend that the PPD incorporate into its policy a directive that discusses the goals, objectives, and responsibilities of the Community Policing Unit. We also recommend that the monthly community policing reports be revised to include a detailed analysis of any community concerns or problems, an explanation of the steps that the Community Policing Unit has taken to address those concerns, and significant feedback from both community policing officers and the community regarding the effectiveness of those measures. The community policing reports should also be reviewed by Patrol Division officers. Finally, we recommend the reduction of a Patrol supervisor's maximum span of control from the current level of fifteen officers to ten officers. This would enable supervisors to better assess officer conduct and provide support and guidance where needed.

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We hope that this letter will assist in our mutual goal of ensuring that the PPD provides the best possible police service to the citizens of Portland. We look forward to working with you and the PPD in the coming months as our investigation proceeds.

Sincerely,

/s/ Shanetta Y. Brown Cutlar

Shanetta Y. Brown Cutlar
Acting Chief
Special Litigation Section

cc: Beth Poliquin, Esq.