

**The Portland Police Bureau:
Officer-Involved Shootings
and In-Custody Deaths**

Second Follow-Up Report

Police Assessment Resource Center

December 2006

**The Portland Police Bureau:
Officer-Involved Shootings
and In-Custody Deaths**

Second Follow-Up Report

Police Assessment Resource Center

520 South Grand Avenue, Suite 1070

Los Angeles, CA 90071

(213) 623-5757

www.parc.info

December 2006

About PARC

The **Police Assessment Resource Center (PARC)**, a non-profit organization, is dedicated to strengthening effective, respectful, and publicly accountable policing. PARC serves as an “honest broker,” working in cooperation with law enforcement executives, civic and government officials, civilian oversight professionals, and other interested constituencies to improve police performance. Based in Los Angeles and New York, PARC provides direct services to jurisdictions throughout the United States and serves as a national resource center specializing in the formulation and dissemination of model policies and procedures to manage and reduce the risk of police misconduct.

Through its direct services, PARC assists officials in individual jurisdictions as they develop and strengthen oversight systems. PARC conducts reviews of police policies and practices; evaluates external and internal oversight mechanisms; collects and analyzes relevant data; performs accountability audits; and helps police leaders develop and implement management strategies that promote accountability.

As a national resource center, PARC performs research on issues of concern among law enforcement professionals and community members, and provides guidance regarding policing practices and oversight of the police. PARC publishes a quarterly newsletter, *Police Practices Review*, maintains an informational website; sponsors forums on issues and trends in the field of policing; conducts and publishes independent research on emerging issues and enduring challenges in policing; and catalogues model policies and procedures.

***A copy of this report is available on-line at
http://www.parc.info/portland_police_bureau_publications.shtml.***

POLICE ASSESSMENT RESOURCE CENTER

Staff

Merrick J. Bobb
Matthew Barge
Camelia Naguib
Oren Root
Timothy Shugrue
Norma Zamudio

Consultants

Gerard LaSalle

Christopher M. Moore, Esq.

Ruben B. Ortega
Chief
Phoenix and Salt Lake City Police Departments
(Ret.)

Susan L. Quinn



CITY OF
PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR

Gary Blackmer, City Auditor
1221 SW 4th Ave, Room 140
Portland, Oregon 97204-1987
Phone: (503) 823-4078 Fax: (503) 823-4571
e-mail: gblackmer@ci.portland.or.us

MEMORANDUM

To: Mayor Tom Potter
Commissioner Sam Adams
Commissioner Randy Leonard
Commissioner Dan Saltzman
Commissioner Erik Sten

From: Gary Blackmer, City Auditor

Date: January 10, 2007

Subject: Review of Officer-involved Shootings

This is the third report prepared for my office as called for in the City Code. City Council instructed that these reviews emphasize policy-level recommendations with the goal of identifying any strategies for reducing the possibility of future incidents. We hired the Police Assessment Resource Center (PARC) to conduct the first review, which was issued in 2003.

PARC reviewed 10 more closed shooting incidents for this report, bringing the total cases reviewed to 58 in a six-year period from 1997 to 2002. In addition, the PARC reports review the Police Bureau's progress in implementing the policy recommendations of the previous reports. I am very pleased to see many substantial changes undertaken by the Bureau on those recommendations. You will also find responses from the Police Chief and Mayor, attached at the back of the report, addressing the issues and recommendations.

I took on this oversight responsibility, knowing that there were many ways it could fail. But in 2002 I believed that a methodical review process, outside the emotionally-charged atmosphere of these tragedies, could identify recommendations regarding deadly force issues and deaths in police custody. The work has produced over 100 recommendations and most importantly, many members of the Police Bureau have cooperated and contributed immensely to making this a constructive effort.

I believe the work of PARC, the Police Bureau, and my office has prevented some shooting incidents, and I wish I knew how to celebrate the tragedies that don't occur. Nonetheless, Portland set a new standard of accountability among the nation's cities with this process. For that we should all be proud, and then we should immediately commit ourselves to find more areas to improve.

Table of Contents

Executive Summary	1
1. Introduction	3
2. Responses to PARC’s Recommendations on Internal Review	11
After Action Reports	12
Use of Force Review Board	18
Awards	45
3. Responses to PARC’s Recommendations on Management of Records and Information	47
4. Incident Reviews	51
Case Characteristics	51
Tactical and Risk Issues	53
Quality of Homicide Investigations	56
Internal Affairs Investigations	60
New Recommendations	63

Appendix Table of Contents

Portland Police Bureau (PPB)

Policy Section 335.00 (2005)	1
Policy Section 940.00 (2005)	11
Chief's Memorandum to Force Board Members (May 10, 2006)	14
East County Major Crimes Team MOU (2000)	15

Executive Summary

In the second follow-up report to its 2003 Report on Portland Police Bureau (“PPB”) officer-involved shootings and in-custody deaths, the Police Assessment Resource Center (“PARC”) examines how the PPB has responded to certain recommendations in the 2003 Report and also reviews 10 officer-involved shootings that occurred in 2002 and 2003.

In an effort to ensure that the PPB’s policies and practices relating to officer-involved shootings and in-custody deaths were up-to-date and consistent with good practice, the Independent Police Review Division of the Office of the Portland City Auditor retained PARC in 2002 to examine those policies and practices. PARC’s original report made 89 recommendations for changes in the PPB’s deadly force policies, investigation and review procedures and practices, tactics, and information management. Our First Follow-Up Report in 2005 looked at the PPB’s and City’s responses to 28 of the original 89 recommendations.

This Second Follow-Up Report finds that the Police Bureau, under the leadership of both current Chief Rosie Sizer and former Chief Derrick Foxworth, has responded very positively to most of the 25 recommendations examined this year. Those 25 recommendations involved the PPB’s internal processes for reviewing officer-involved shootings and in-custody deaths and the Bureau’s management of records and information. Moreover, Chief Sizer has indicated a laudable willingness to further consider the possibility of implementing a good number of the relatively few of PARC’s recommendations relating to the review process that have not thus far been adopted by the PPB. With several changes that the Chief has said will be studied, the PPB’s already-vastly-improved review process would be fully in accord with national good practices.

Much of this report is devoted to the policies and procedures of the PPB’s new Use of Force Review Board which provides the Bureau with an effective and credible review process to identify and learn the appropriate lessons from officer-involved

shooting and in-custody death incidents. The review process, which was formerly conducted solely by members of the PPB's command staff, now includes two civilians and two Bureau peers among the nine members for the board. Presentations to the new board are far more complete and rigorous than was the case under the former process. Procedures have been implemented to ensure that all cases that should be reviewed are in fact reviewed. Training needs and other lessons are routinely identified in the current creditable review process.

As anticipated, our examination of the 10 officer-involved shooting incidents from 2002 and 2003 (only one of which post-dated our original report) raised many of the same issues we identified in the 2003 and 2005 reports. Nonetheless, we do briefly note some of the major tactical and quality of investigation issues raised by those cases.

Our Third Follow-Up Report, to be issued in 2008, will examine the PPB's progress on the remaining 36 recommendations from the original report, which deal with tactical and risk management issues and the quality of deadly force investigations, in the context of the files from the officer-involved shootings that occurred in 2004 and 2005—after the release of the original PARC Report.

PARC values its continued long-term working relationship with the Portland community and the PPB, together seeking to improve the Bureau's policies, procedures, and practices relating to the awesome power of the police to use deadly force.

1. Introduction

This Report looks at 10 PPB officer-involved shootings during 2002 and 2003¹ and examines the PPB's responses to previous PARC recommendations relating to the internal review process and management of records and information. In the main, this Report describes an excellent police department going about its business in a professional fashion. Chief Rosie Sizer, and before that former Chief Derrick Foxworth, and their command staffs have embraced many of the PARC recommendations and have made serious, good-faith efforts to implement a majority of those recommendations. As with all human endeavors, there are always things that could have been done better. This report will point out some instances where that was the case. Overall, however, the Portland Police Bureau has demonstrated increasing professionalism, as it moves toward full implementation of recommendations made in earlier reports.

In 2003, the Police Assessment Resource Center ("PARC") issued a report entitled "The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths," which is commonly referred to as the "PARC Report." The report was commissioned by the Independent Police Review Division (IPR) of the City Auditor's office, and involved a review of 32 officer-involved shootings and two in-custody deaths that occurred in Portland from 1997 through mid-2000. Based upon those case reviews and other relevant information, PARC made 89 recommendations to the Portland Police Bureau (PPB) relating to policy issues and the quality of officer-involved shooting investigations.² In 2005 PARC issued the first of its follow-up reports to its initial report. The 2005 report examined 14 additional officer-involved shootings from mid-2000 through 2001 and looked at the progress the PPB had made on PARC's recommendations

¹ We did not review two other 2002-03 shootings because they were the subject, or potentially the subject, of civil litigation at the time we identified the cases we were going to examine. There were no in-custody deaths in 2002 and 2003.

² The PARC Report may be found on-line at <http://www.portlandonline.com/auditor/index.cfm?c=27070> and at http://www.parc.info/portland_police_bureau-publications.shtml.

on deadly force policy and deadly force investigation procedures. The 2005 report also made 10 new recommendations.³

Chapter 2 of this report looks at the PPB's progress on PARC's recommendations concerning internal review policies (2003 PARC Report Chapter 6). Chapter 3 of this report examines the PPB's response to recommendations concerning management of records and information (2003 PARC Report Chapter 8).

Chapter 4 looks at 10 closed officer-involved shooting cases that occurred in 2002 and 2003.⁴ We emphasize that all but one of the shootings and investigations in the 10 cases we reviewed this year occurred *before* the original PARC Report was issued. Thus, there is no expectation on our part, and should be no expectation on any reader's part, that what occurred in these nine cases could have been influenced by the PARC Report's recommendations. While the proposition that the PPB should not be judged for noncompliance with recommendations that were issued *after* the events being reviewed is an obvious one, we think it important to try to ensure that no reader labors under a mistaken conception of the relevant sequence of events.

Because the shootings and investigations being reviewed (with one exception) occurred before the PARC Report was issued, to the extent that the same issues as were identified in the PARC Report occur in this year's set of cases, we will not belabor those issues. To the limited extent that we have discovered new issues, we address them. When we make recommendations beyond those made in the 2003 PARC Report, they are

³ The 2005 PARC Report may be found on line at http://www.parc.info/portland_police_bureau-publications.shtml and at <http://www.portlandonline.com/auditor/index.cfm?c=27070>.

⁴ Pursuant to the ordinance that authorized IPR to hire an expert to review officer-involved shooting cases, the review is restricted to "closed" cases—that is, cases as to which the civil statute of limitations has expired and on which no litigation is pending—and to identifying "any policy-related or quality of investigation issues that could be improved." "Policy-related issue" is defined by the ordinance as: "a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct." Portland City Code § 3.21.020 (S).

set forth in bold in the text and are numbered sequentially starting at “2006.1” to differentiate them from the 89 recommendations originally made.⁵

This year’s report builds on our two prior reports and often refers to them. Although possible to do, we think that it would be a mistake to read this report without referring at least to the 2003 PARC Report. We encourage the reader to have available a copy of that report in particular while reading this report. The ability to reference the separately bound 2003 Appendix and the 2005 Report would also be beneficial.

PARC reviewed the following materials on the 10 cases that were included in this year’s cohort of cases:

- Such official PPB files of the investigations of each of these incidents as were available, including interviews with officers and civilians, tapes, transcripts of 911 calls and MDT transmissions, videotapes, photographs, medical records, and autopsies;
- After action reports and executive review determinations ;
- City of Portland risk management files for those cases on which a claim was filed;
- Selected non-privileged portions of the City Attorney’s files for those cases on which a lawsuit was filed; and
- The files relating to the nomination for and awarding of commendations.

⁵ Future reports will review officer-involved shootings that occurred primarily after the August 2003 release date of the PARC Report. With respect to those post-August 2003 incidents, we will analyze whether the PPB’s tactics, investigations, and review processes conform to the recommendations of the PARC Report.

This year, the completeness of the files was not a substantial problem. While items that certainly or probably once existed were not included in the files and were thus not reviewed, these occurrences were much more limited than in the past. Files were also much better organized, though large files still suffered from inadequate indexing. On the whole, however, the improvement in completeness and organization of the files was striking.

In addition to reviewing the case files, we met—sometimes on more than one occasion—with numerous PPB officials and others who provided us with information, history, and context.

At the PPB, we met with Chief Rosie Sizer; the Assistant Chiefs;⁶ the heads of the Detective, Internal Affairs, Personnel, Records and Training divisions; as well as other supervisors and line staff, sworn and civilian. We met with a representative, and later spoke by telephone to the President, of the Portland Police Association, the union that represents PPB sergeants and officers, as well as a board member of the Portland Police Command Officers Association, the union that represents lieutenants, captains, and commanders.

We also met with most of the citizen and peer members of the new Use of Force Review Board who had participated in reviewing the first four officer-involved shooting cases heard by the board and we communicated by telephone or e-mail with other citizen members. We participated in a ride-along.

We met with Mayor Tom Potter, City Auditor Gary Blackmer, and IPR Director Leslie Stevens. We spoke by telephone with the two deputy city attorneys most involved in working with the PPB, as well as with the Chief Assistant District Attorney of the Multnomah County District Attorney's office.

⁶ Because of rapid changes in these positions in the recent past we met or spoke to seven past or present incumbents of the three Assistant Chief positions.

We met with members of the Citizen Review Committee and representatives of community groups, activist organizations, and attorneys concerned with issues related to policing.

We gave those we met our contact information and encouraged them to call or e-mail us during the course of this project with additional information and insights that would further our work.

PARC retained two consultants with a wealth of sworn law enforcement experience and broad knowledge of policing practices across the country to participate in the file reviews and in the formulation of the conclusions reached by this report. Brief biographies of these experienced police professionals follow.

Ruben B. Ortega was Chief of the Salt Lake City Police Department from 1992-2000 and Chief of the Phoenix Police Department from 1980-1991. Joining the Phoenix department in 1960, he rose through the ranks before becoming Chief. In both Salt Lake City and Phoenix, he instituted community policing and created police-citizen review boards that oversaw uses of force and discipline. Chief Ortega was President of the Major Cities Chiefs Association and for 10 years served on the Executive Committee of the International Association of Chiefs of Police (IACP), where he was instrumental in the formulation of IACP's first Model Policy on Deadly Force. He was appointed to numerous commissions by Presidents Reagan, George H.W. Bush, and Clinton, and by the Governors of Arizona and Utah. He graduated from the FBI Academy's National Executive Institute and the Community Oriented Policing Program at Harvard University's John F. Kennedy School of Government. Chief Ortega participated in PARC's meetings in Portland with PPB and other government officials.

Christopher M. Moore has been a sworn police officer in California for 24 years, most recently as a Captain with the San Jose Police Department. From 2000-2002, he served as Commander of the Internal Affairs Unit of the San Jose PD where he was responsible for managing the disciplinary process for more than 1,800 employees and

supervising the department's administrative investigations of officer-involved shootings. From 1999-2000, as a White House Fellow, Capt. Moore served as counsel to U.S. Attorney General Janet Reno. Among his Justice Department responsibilities were managing the Attorney General's conference on police uses of force nationally and reviewing use of force policy. Capt. Moore is a graduate of the California P.O.S.T. Law Enforcement Command College, and currently serves as an instructor in P.O.S.T. Police Management courses at San Jose State University. He is a member of the State Bar of California. Capt. Moore has worked with PARC on all three of our Portland reports, adding to the depth of the perspective he brings to this project.

Significant time was devoted to reviewing the 10 investigative files and other materials related to those cases. All the first reviews were done by staff members and consultants with significant police oversight experience. Two team members, always including one of the highly experienced law enforcement professionals profiled above, were assigned to each file, with each reviewer expected to provide an independent assessment of the issues in the case. The review team met for a full day in August 2006 to discuss themes drawn from the individual cases and the PPB internal review policies and procedures drafted in response to our recommendations.

Drafts of our final report were provided to the Mayor, the PPB, the City Auditor, IPR, and the City Attorney. Drafts were also provided to, and comments sought from, members of the review team. After circulating drafts of our report, we met with PPB command staff, the City Auditor, the director of IPR, and a deputy city attorney to discuss our findings and recommendations, and to respond to concerns about our report. We carefully considered the constructive suggestions made to us concerning our report by those who read the draft. Neither the PPB nor anyone else who read the draft in any way impinged on our independent judgment as to our findings and recommendations.

The Mayor and PPB were provided an opportunity to respond in writing to our report. The Mayor's and PPB's responses were drafted after PARC's report was completed. The process set up by the City Auditor's office did not provide an

opportunity for PARC to respond to the specific language in the Mayor's and PPB's responses. Our extensive discussions with the PPB, however, led us to believe that we had sufficient information concerning the limited areas in which we and they disagree to have adequately anticipated the Bureau's response.

Having detailed what we did do, we should point out what PARC did not do. We did not review any cases other than the 10 that occurred within the prescribed time period. And consistent with the terms of the city ordinance that restricted our analysis to "policy-related issues," we did not re-investigate the 10 cases whose investigations we reviewed; nor do we provide any assessment as to whether the officers involved in these cases acted lawfully or within PPB policy.

2. Responses to PARC's Recommendations On Internal Review

Chapter 2 addresses the Portland Police Bureau's responses to the PARC Report's recommendations concerning its internal review process for officer-involved shootings and in-custody deaths. That process has two parts. The first level of review comes from the involved officers' chain of command. The involved officers' unit commander is responsible for preparing a written analysis of the incident, known as an after action report, which is then forwarded to the Assistant Chief in the involved officers' chain of command for review and comment.

The second level of review involves an executive-level board that considers whether the officers' action were in or out of policy and whether the incident and the officers' handling of it present lessons to be learned or concerns to be addressed. Until mid-2005, that high-level board was the Review Level Committee. Pursuant to a new policy promulgated in 2005, a newly-formed Use of Force Review Board ("Force Board") began to fulfill that function. The Force Board added citizen and peer members to what had been solely high-level managers from the Bureau, while its proceedings are broader in scope than those of the Review Level Committee.

PARC requested and received documentation directly related to the review process on the first five cases presented to the Force Board so that we would have an up-to-date understanding of the PPB's current review procedures. PARC has not, however, reviewed the case files from those incidents.

This chapter also addresses PARC recommendations relating to the awards process for officers involved in shootings.

In some instances, the Bureau has considered a recommendation PARC made and has chosen a change in policy or procedure different than PARC recommended. If that

different response is consistent with good practices and fulfills the intent of the recommendation, we will say so. Sometimes there is more than one good practice relating to a particular issue. On the other hand, where better practices currently being used by other law enforcement agencies suggest that the changes implemented by the Bureau should have gone further or in a different direction, we will discuss how the provisions in question can be improved. Throughout this and the following chapter we will set forth the PARC Report's original recommendation before discussing the PPB's response to that recommendation.

I. After Action Reports

In December 2005, with the publication of a new edition of its Manual of Policy and Procedure, the PPB issued a new policy, Section 940.00, concerning after action reports.⁷ An after action report is defined by the policy as “[a] narrative report that describes a police action and assesses its effectiveness through critique and evaluation using required criteria.” The policy sets forth 16 types of incidents requiring after action reports, the most pertinent of which for our purposes are a firearm discharge and an injury—which would include a death—to a suspect in custody.

Section 940.00 specifies that an after action report should be in the form of a memo to the applicable Assistant Chief drafted in accordance with a standardized format. The report is to include a summary of the significant facts, a calculation of personnel costs, a critique and recommendations, and an appendix of relevant documentation. The requirements for the critique and recommendations, the heart of an after action report, are as follows:

⁷ A copy of Section 940.00 is set forth at page 11 of the annexed Appendix. The version of Policy Manual Section 1010.10, dealing with deadly force, that was in effect until August 1, 2005, contained the PPB's previous requirements for after action reports in incidents involving deadly force.

The critique and recommendations will contain a thorough analysis of the incident. It will address any applicable directives and whether they were complied with or not complied with, and any recommendations or actions taken to address issues raised in this area of the After Action Report.

Recommendation 6.1: *The PPB policies relating to reviews of deadly force—both after action reports and Review Level Committee—should be explicitly extended to in-custody death incidents.*

This recommendation has been fully implemented. The Bureau’s current policies on after action reports⁸ and on the Use of Force Review Board,⁹ which replaced the Review Level Committee for these purposes, appropriately require both levels of review for in-custody deaths. Under pre-2005 PPB policies, in-custody deaths were not required to be reviewed at either the unit or the executive level.

Recommendation 6.2: *The PPB should ensure that after action reports are completed in all officer-involved shooting and in-custody death cases, and that unit commanders are held accountable if the reports are not completed in a timely fashion.*

The PPB has implemented the first half of this recommendation, and from all appearances, has also implemented the second half since the institution of the new Force Board procedures.¹⁰ All 10 of the 2002 and 2003 incidents considered in this year’s

⁸ Policy Manual Section 940.00, “After Action Report,” (a)(7), set forth at Appendix page 12.

⁹ Policy Manual Section 335.00, “The Use of Force Review Board Functions,” (a)(3), set forth at Appendix page 5.

¹⁰ In two of the cases studied this year, however, the after action reports were long delayed—22 months after the incident in one case and eight months after the incident in the other. The timing of these reports suggests that it was the identification of the review process problems in the 2003 PARC Report that prompted their completion.

study received an after action review.¹¹ The present administrative investigatory process is structured in a way that makes it seem quite unlikely that the PPB would fail to generate a timely after action report in future deadly force cases.

With respect to timing requirements, however, we note a discrepancy between directives that should be corrected. The Bureau should revise Section 940.00 to conform to the procedures being employed in deadly force cases and to the provisions of Section 335.00.¹² Section 940.00, “After Action Report,” (b) provides that “After action reports will be completed within seven working days of the incident generating it.” But under the procedures that the PPB is employing since the Force Board was instituted, unit commanders are not supposed to complete an after action report until after they have received the files and reports generated by the Homicide detectives relating to the criminal investigation, the Training Division relating to compliance with PPB training, and the Internal Affairs Division relating to compliance with Bureau policies. The Training and Internal Affairs investigations are not completed until at least several months after the incident. Section 335.00¹³ gives the unit commander 14 days to make findings on the possible disciplinary charges. While the Policy Manual does not state that the findings should be incorporated in the after action report, that has been the practice.

Recommendation 2006.1: Policy 940.00(b) should be amended to require that the after action report in officer-involved shooting and in-custody death cases should be completed within 14 days of receipt by the unit commander of the files of the Homicide, Training, and Internal Affairs investigations of that case. Policy 335.00 should be amended to make explicit the relationship between the after action report and the unit commander’s findings in Force Board cases.

¹¹ In contrast, approximately 40 percent of the incidents we examined for our 2003 and 2005 reports—covering 1997 through 2001—were not reviewed by after action reports.

¹² “Use of Force Review Board Procedures,” (a)(2), set forth at Appendix page 6.

¹³ “RU Manager Responsibilities (or his/her designee),” (a) & (b), set forth at Appendix page 7.

Recommendation 6.3: *The PPB should enforce its policy that requires unit commanders, rather than their subordinates, to prepare and sign after action reports in deadly force cases.*

The PPB has implemented this recommendation in current practice, but has removed the recommended policy requirement from its directives. Unit commanders are in fact signing and submitting the reports themselves, rather than delegating the responsibility to subordinates and then *pro forma* forwarding the report to the Assistant Chief. We looked at the after action reports prepared for the first five cases submitted to the Use of Force Review Board.¹⁴ We found that the unit commanders were more analytical and more likely to critique the incidents than their subordinates were.

Although the Bureau's current practice is consistent with Recommendation 6.3, Section 940.00 dropped the requirement of former Section 1010.10 that after action reports in deadly force cases be written by the unit commander. The Bureau should conform its policy to its current good practice by amending Section 940.00 to make after actions reports in deadly force cases the responsibility of the unit commander. The unit commander's personal involvement is particularly important under current procedures because the after action report now includes proposed findings, or recommendations, concerning any policy violations identified by the Internal Affairs investigation.¹⁵

Recommendation 6.4: *The PPB should create a model after action report—from an actual or a hypothetical case—to demonstrate to unit commanders both the form and type of analysis that such reports should employ.*

¹⁴ All were submitted by the unit commanders, demonstrating a marked improvement in practice over the cases reviewed for the 2003 PARC Report, where a majority of the reports were prepared by subordinates .

¹⁵ The recommended amendment to Section 940.00 will create consistency not only with the current good practice, but also with Policy Manual Section 330.00, "RU Manager Responsibilities," (e), which requires the unit commander to make a recommended finding for each allegation raised by an Internal Affairs investigation.

The Bureau has partially implemented this recommendation. It has created templates for after action reports for four different circumstances in which such reports are required: a vehicle pursuit, a vehicle collision, use of a Taser, and use of force. The use of force template sets forth the following topics that should be covered: Officer involved (which is to “include what force each officer used ... and if they are certified in the use of that tool”), date and time occurred, location of occurrence, injury sustained, narrative, and critique and recommendations (which is to include an analysis of whether the force was or was not within policy).¹⁶

Of the five after action reports from the first five Force Board cases, the four from precinct commanders used a format adopted by the Operations Branch. Among the particular strengths of this format is a focus on “key decision making points” that precede an analysis of the “decision to shoot.” The Operations Branch format is exemplary, and the PPB would do well to adopt it as its uniform format. The PPB should provide a model report to all unit commanders called upon to draft an after action report in a deadly force case so as to illustrate the type of analysis that should be employed.

Recommendation 6.5: *The PPB should ensure that after action reports rely on the facts developed by the investigation of the incident (unless the unit shows that those facts are erroneous or incomplete), and that copies are distributed to the detectives who investigated the incidents and their commanding officer.*

The Bureau has implemented the first half of this recommendation. Currently, an after action report is written after the Detective Division has investigated the incident. The unit commander is provided with the Detective Division’s entire file, as well as the reports of the Internal Affairs and Training divisions. All five of the recent after action

¹⁶ The templates are only partially consistent with Section 940.00. The order of presentation is different and the templates do not have a place for a recitation of the personnel costs or a list of appended documents, as the policy does.

reports drew upon information presented from the Homicide investigation and the analyses done by Internal Affairs and Training.

With respect to the second half of this recommendation, the Force Board process implements its spirit. The intent of this recommendation was that the Bureau have in place procedures that ensured that the facts in the after action report were scrutinized for accuracy. Since the Force Board hears presentations from both those who conducted the criminal and administrative investigations and the author of the after action report, the board is in a position to identify any factual discrepancies that might arise in the after action report.

Recommendation 6:6: *The PPB should devise an accountability process to ensure that after action reports comply with the content requirements of Section 940.00¹⁷ and engage in meaningful analysis.*

In at least many instances this recommendation is being implemented in practice by the Assistant Chief in the chain of command of the unit commander producing the after action report. The practice, however, should be incorporated in policy by adding a requirement to Section 940.00 that the Assistant Chief receiving an after action report either approve it as appropriately drafted or return it for necessary revisions. If the report is incomplete or its analysis is deficient, the report should be returned to its author to make the necessary improvements.

¹⁷ The section cited in the original recommendation was Section 1010.10. Since the policy requirements for after action reports have been shifted to Section 940.00, we amended the recommendation to reflect the present policy number.

II. Use of Force Review Board

A. Current Procedures

Until July 5, 2005—when Policy Manual Section 335.00 became effective—the Bureau’s review of officer-involved shootings and recommendations on discipline were performed by the Review Level Committee, composed of the three Assistant Chiefs and the unit commander of the officer whose actions were being reviewed. In the 2003 PARC Report we recommended reforms and improvements to the Review Level Committee.¹⁸ The PPB decided to create the Force Board instead. Section 335.00 created two separate boards: the Performance Review Board deals with disciplinary matters and the Use of Force Review Board—which is pertinent to our analysis—reviews the following types of incidents:¹⁹

1. All officer involved shootings.
2. Serious injury caused by an officer that requires hospitalization.
3. All in-custody deaths.
4. Less lethal incidents where recommended finding is out of policy.
5. Discretionary cases referred by the Chief or [Assistant Chief].²⁰

The overall concept of the Force Board and many of its structural and procedural aspects represent significant policy improvements consistent with good practice. Notwithstanding the integrity of the fundamental aspects of the Force Board, there are a variety of ways, as we will discuss below, in which the present structure and procedures should be improved. In considering these suggested improvements, however, the reader

¹⁸ A senior PPB official told us earlier this year: “In the past, it [the Review Level Committee] was not a real process.”

¹⁹ Section 335.00, “The Use of Force Review Board Functions,” (a), set forth at Appendix page 5.

²⁰ The Manual uses the term “Branch chief.” At present all the branch chiefs are Assistant Chiefs, the term we will use, as it will be more widely understood outside the Bureau.

should not lose sight of the fact that the big picture relating to the Force Board is very positive.

The Force Board is composed of the following voting members: the three Assistant Chiefs, the involved member's unit commander, another unit commander, two PPB peer members who hold the same rank as the involved member, and two citizens. In addition, there are three non-voting members: the Review Board Coordinator and representatives of the City Attorney's office and the Bureau of Human Resources. Also entitled to attend the presentations are representatives of the Detective, Internal Affairs, and Training divisions, and IPR.²¹

The citizen and peer members of a particular Force Board are chosen by the coordinator on a rotating basis.²² The coordinator chooses the second unit commander from among the precinct commanders whose members are not involved in the incident.

Twenty-four community members were selected from among 57 applicants by Chief Foxworth in October 2004 to comprise the citizen pool for the Force and Performance boards. Seven are African American and one is Latino. Sixteen are men.²³ Many of those chosen are on Bureau advisory committees and were solicited to apply by Bureau personnel. Others responded to newspaper ads. Four are current or former members of the Citizen Review Committee. Candidates filled out an application that some characterized as invasive and onerous, and were subject to background checks. The citizen members were appointed for two-year terms. Before the citizens sat on a board, they received 45 hours of training, which those citizens we interviewed found useful in preparing them for their responsibilities.²⁴

²¹ Section 335.00, "Use of Force Review Board Composition," set forth at Appendix page 6.

²² Section 335.00, "Selection Process for Board Members," set forth at Appendix pages 2-3. Peers from the same unit as an involved member are ineligible for service on that board.

²³ "Portland Police Pick 24 Citizens for Review Boards," *The Oregonian*, October 21, 2004.

²⁴ One citizen member stated that the fact that most classes were on Wednesday evenings deterred a number of African Americans who would have been interested in serving because it conflicted with church services.

We interviewed five of the seven citizen members who had sat on the first four Force Board proceedings.²⁵ All five were generally positive about their experience on the Force Board, but all were concerned that they might not sit on another Force Board for a couple of years (assuming they were reappointed). All believed that they would be more prepared and more effective the second time they sat, having seen the whole process all the way through once. Citizen and peer members have access to the file on the case prior to its being heard by coming to read it at police headquarters. There was some concern expressed about the hardship of having to make time to read the file during business hours since that conflicted with citizens' work schedules.²⁶

Some in the community have expressed concern that the 24 citizens' names have not been publicly released. All five we interviewed said they would have no objection to have their names released as being members of the pool, but most said that they were reluctant to have their names released as having heard a specific case. The distinction these members draw is an appropriate one: Consistent with principles of open government—of which the State of Oregon is a strong proponent—transparency concerning persons performing public service should be the presumption unless compelling reasons dictate to the contrary.

Recommendation 2006.2: Starting with the next appointments or reappointments, the PPB should make public the names of the citizens who are members of the Force and Performance board pools.

Forty-eight members of the Bureau—40 sworn (up to the rank of lieutenant) and eight unsworn—have been appointed to serve as peer members on the Force and Performance boards.²⁷ All the peer members are volunteers. All who volunteered were selected for the pool except those few mutually agreed by the Assistant Chief of Services

²⁵ The interviews of the citizen and peer members were conducted in April 2006. At that point only four Force Board proceedings had been convened.

²⁶ No concern was expressed about hearing the cases during the day.

²⁷ One unsworn member was later declared ineligible to serve because of her union position.

and the representative of the member's bargaining unit to have significant disciplinary histories or otherwise likely not to hear cases with an open mind.

We interviewed seven of the eight peer members who sat on the first four Force Boards. While the Portland Police Association, the union for officers and sergeants, and peer members—six officers and one sergeant, who had between six and 10 years on the force—believed that the presence of peers on the Force Board was desirable, the peers were considerably less positive about the experience than the citizens. Part of the reason for their dissatisfaction is that they had had no orientation concerning the Force Board process and did not know what to expect. Several described going to read the large case files before the hearings and not knowing where to start and what they should be looking for in the many hundreds of pages of documents.

Recommendation 2006.3: The PPB should provide a comprehensive orientation to the present and future peer members of the Force Board.

Peer members were also concerned about the confusion and lack of clarity that surrounded the deliberations and voting at the conclusion of the Force Board proceedings. They were not alone in this concern, but were joined by a number of others—with varying experience and perspectives—who have attended Force Board proceedings. Peer and citizen members have described such abbreviated discussion before a dispositive vote was held on some cases as to undermine confidence in the process. In one case an issue arose concerning whether the supervisory actions of a sergeant were in policy. After what both board members and observers have described as a great deal of confusion, the issue of the sergeant's conduct was referred to a separate Performance Review Board and was not voted on at the Force Board proceeding. Peer and citizen members expressed concern about the poor definition of the issues to be considered.²⁸ Others have pointed out that the Force Board procedure is quite new and that the Bureau is figuring out how to effectively conduct the proceedings as it goes

²⁸ The discussion relating to Recommendation 6.16, at pages 42-43, below, also deals with these concerns and proposes how to achieve greater clarity of issues to be resolved.

along. “Work in progress” is a phrase one hears with frequency in this context from PPB executives and managers.

The peer members’ biggest concern was that they would be retaliated against for questions they asked or comments they made, if those questions or comments suggested disagreement with the views of the Assistant Chiefs or unit commanders on the Board. For a full discussion of this concern and Chief Sizer’s response to it, see the discussion relating to Recommendation 6.12 at pages 37-39, below.

The President of the Portland Police Association (PPA) expressed some concerns about the Force Board process from the perspective of the involved officers who are invited, but not compelled, to appear to make a statement and to answer questions.²⁹ Chief among those concerns was the difficulty in determining whether it was to the member’s advantage to appear. Thus far, all involved officers have appeared. Force Board members have consistently commented on the value of hearing the officers’ viewpoints.

The PPA President identified the need for a fact sheet that involved officers would receive together with their invitation to appear. The fact sheet would cover the procedures affecting the involved officer before, during, and after the Force Board presentation, including the right to review the file before the presentation³⁰ and how the officer would be asked before the Board to make a statement. The union president recommended that the PPB identify consistent and appropriate verbiage for requesting the officer’s statement to the Force Board. Concern was expressed about the number of non-Board members attending some of the initial hearings—a concern that has been alleviated by restricting the attendance of nonessential personnel.

²⁹ The PPB’s decision to make involved members’ appearance before the Force Board voluntary rather than mandatory was appropriate.

³⁰ The involved officer at the first Force Board presentation was not given an opportunity to review the file in advance of the proceeding, despite the requirement of Section 335.00 for such a review. That problem has not recurred.

Finally, at least one involved member was upset by a citizen question that was perceived as unknowledgeable about policing practices that raised concerns about whether citizen members were qualified to determine whether a shooting was in or out of policy. The PPA President's perspective on the latter point was that involved members could have confidence in the process because the command staff constituted a majority—five of nine—of the votes on the board.

Recommendation 2006.4: The PPB, with input from the PPA and the superior officers' association, should draft a fact sheet that sets forth the procedures of the Force Board that directly affect an involved member before, during, and after a Force Board presentation³¹ and should include that fact sheet with the invitation to the involved member to attend the proceeding. The PPB should adopt standardized language for requesting the member's statement before the Force Board and should advise involved members' of that language in the fact sheet.

We turn now to a brief discussion of what occurs both before and at a Force Board hearing. After the Homicide detectives' file on the criminal investigations is ready for distribution, copies are provided to both Internal Affairs and Training.

Internal Affairs conducts an administrative investigation of the deadly force incident. Until recently, the Internal Affairs investigation focused exclusively on whether the use of deadly force was in or out of policy. Recently Internal Affairs has broadened the investigation to all possible grounds on which the involved officer's (and others') performance might have violated policy. In conducting its administrative investigation, Internal Affairs relies heavily upon the investigation Homicide previously conducted. Internal Affairs only interviews or re-interviews witnesses if it deems it necessary. More than half the time they conduct no interviews of their own.

³¹ Examples of the points that a fact sheet for involved officers would include are that appearance before the Force Board is voluntary, involved officers may consult with an attorney and/or union representatives as to whether to appear before the board, and investigative files are available for inspection by involved officers and their union representatives before the scheduled Force Board proceeding.

Homicide's interviews are focused on whether a crime occurred. The administrative investigation is focused on policy, training, and tactical issues, including whether the use of deadly force could have been avoided, without compromising the safety of officers or others at the scene. Because of the wider scope of the administrative investigation, the narrower interview conducted for the criminal investigation will not adequately cover all the issues that should be investigated administratively.

Recommendation 2006.5: PPB policy should require that Internal Affairs, as part of its administrative investigation of deadly force incidents, interview the involved officers, unless Homicide's investigation has covered all appropriate issues relating to policy, training, and tactics.³²

IPR assists Internal Affairs in two ways in connection with these administrative investigations. First, at the time Internal Affairs commences its investigation, IPR reads the Detective Division file and may make suggestions of issues and topics to consider during the administrative investigation. Then when Internal Affairs' investigatory report has been completed, IPR reviews it and may make comments or suggestions. Internal Affairs is supposed to wait for IPR's feedback before forwarding its report to the Review Board Coordinator, but this does not always occur.

At the same time that Internal Affairs receives the file on the criminal investigation from Homicide, Training receives another copy. Training conducts a several-hour-long joint debriefing of the involved, witness, and supervisory members who participated in the incident. Training, working parallel to Internal Affairs, prepares a report relating to whether the involved and other officers followed the Bureau's training and whether the circumstances of the incident suggest additional topics that should be addressed either in the academy or in-service training. When Training has completed its report, it forwards it to the Review Board Coordinator.

³² Because of the different goals of the investigations, we expect that Homicide's interview of an involved officer will rarely suffice for the Internal Affairs investigation. In 55 of the 56 PPB officer-involved shooting cases we have reviewed since 2003, Homicide's interview did not sufficiently cover the administrative investigation issues.

During the Internal Affairs/Training part of the process, Detectives, Internal Affairs, and Training do not get together to discuss the case. There is increasing discussion among them, however, that a joint meeting soon after Homicide delivers the file would be desirable and would decrease the chance of an important issue being missed.

When the coordinator has received both the Internal Affairs and the Training reports, she forwards them and the Homicide report to the involved officer's unit commander for the after action report and findings.³³ The commander has 14 days to complete the after action report and findings and to forward them to the coordinator.³⁴ A date is then set for the hearing.

At the Force Board hearing, first Homicide, then Internal Affairs, then Training make oral presentations and answer questions from voting and nonvoting board members. After those presentations the involved officer has the right to appear, if the officer wishes, and make a presentation and answer questions. Board members have commented that involved members often do not seem to know what to anticipate when they appear and that their levels of preparation and anxiety vary greatly.³⁵ Sometimes the officer comes across as quite defensive. Sometimes it is the opinion of observers that board members seem to hold back in the questioning of the involved officer. Notwithstanding the concerns, it is the general opinion that the involved officer's appearance adds significantly to the value of the proceeding.

A presentation from the involved officer's unit commander follows. After that, the observers and presenters still in the room, other than Internal Affairs and IPR, leave

³³ Until earlier this year Internal Affairs played this coordinating role, in accordance with Section 335.00, "Use of Force Review Board Procedures," (a)(2), set forth at Appendix page 6. If the PPB continues to choose to have this role fulfilled by the Review Board Coordinator, Section 335.00 should be amended to conform to the PPB's practices.

³⁴ "RU Manager Responsibilities (or his/her designee)," (a) & (b), set forth at Appendix page 7.

³⁵ Recommendation 2006.4, set forth at page 23, above, seeks to increase involved members' advance understanding of the process.

and the deliberations and voting—as to “in” or “out of” policy—occurs. Voting does not occur on the action items; rather they are identified by consensus.

Immediately after the deliberations and voting, the Assistant Chief for Services (or the substitute chair) orally informs the involved member, or the member’s union representative, of the Board’s recommendation.³⁶ The first five Force Board cases all resulted in unanimous findings that the use of deadly force was in policy.

The Force Board’s vote constitutes a recommendation to the Chief. No procedure exists for notifying board members of the final outcome of the case. In light of the time and effort expended, and because a contrary decision by the Chief would be a learning opportunity, the PPB should notify Force Board members of the final outcome of the case.³⁷

Recommendation 2006.6: The PPB should notify Force Board members of the final outcomes of cases in which they participate.

The first five cases presented to the Force Board—heard from July 2005 through May 2006—took between eight and 15 months from the date of incident to the Force Board hearing. Eight months is too long and 15 months is severely detrimental to an effective review process. We have created the following chart to demonstrate the stages when some of the delays occur. We have listed the cases in chronological order (the incidents start in November 2004 and end in March 2005), listing the date of each incident as “Day 0” for that case.

³⁶ Section 335.00, “Affected Members’ Responsibilities,” (c), set forth at Appendix page 5.

³⁷ If discipline more serious than a letter of reprimand is imposed, board members will not be notified of the outcome for months, as it takes that long to complete several interim steps and for suspensions, demotions, or dismissals to be approved by the Police Commissioner (traditionally the Mayor).

Event	Case 1	Case 2	Case 3	Case 4	Case 5	Median Days
Incident	Day 0	Day 0	Day 0	Day 0	Day 0	0
Grand Jury (No Bill)	Day 15	Day 13	Day 11	Day 6	Day 10	11
IA/Training ³⁸ Received Case	Day 60	Day 77	Day 76	Day 240	Day 115	77
IA Completes Investigation	Day 135	Day 232	Day 278	Day 340	Day 289	278
Sent to Unit Commander	Day 141	Day 383	Day 285	Day 340	Day 289	289
After Action Done	Day 170	Day 424	Day 300	Day 388	Day 309	309
Force Board Hearing	Day 243	Day 440	Day 319	Day 431	Day 325	325
Total Months (rounded)	8	15	11	14	11	11

Section 335.00 sets some deadlines: 70 days for the Internal Affairs investigation³⁹ (this stage took 75, 155, 202, 100, and 174 days, respectively—a median time of 155 days, more than twice the time set by policy); either 14 or 21 days,⁴⁰ plus 7 days for the Assistant Chief’s review,⁴¹ for the after action report (this stage took 31, 41, 15, 48, and 20 days, respectively—a median time of 31 days); and “as soon as it is reasonably possible” versus 21 days to set the Force Board hearing⁴² (this stage took 73, 16, 19, 45, and 16 days, respectively—a median time of 19 days).

³⁸ While the dates Training received the Detective files are not specifically documented, the practice is that the Homicide detail would send its file to both Internal Affairs and Training on the same day. Records apparently do not exist on most of these cases as to when Training completed its reports.

³⁹ “Use of Force Review Board Procedures,” (a)(2), set forth at Appendix page 6.

⁴⁰ “RU Manager Responsibilities (or his/her designee),” (a), set forth at Appendix page 7 (14 days); versus “The Bargaining Units’ Responsibilities,” “Branch chief review,” (a), set forth at Appendix page 8 (21 days).

⁴¹ “Branch Chief Responsibilities (or his/her designee),” (a), set forth at Appendix page 7, and “The Bargaining Units’ Responsibilities,” “Branch chief review,” (b), set forth at Appendix page 8, agree that the Assistant Chief has seven days to review the after action report and findings.

⁴² “Review Board Coordinator Responsibilities,” (b)(1), set forth at Appendix page 9 (ASAP); versus “The Bargaining Units’ Responsibilities,” “Branch chief review,” (d), set forth at Appendix page 9 (21 days).

The three places to concentrate on saving time are getting the case to Internal Affairs and Training (where 30 days from the date of the grand jury decision seems a reasonable goal), completing the Internal Affairs report (where the policy standard is 70 days), and completing the Training report in the same 70 days. If these benchmarks were achieved, cases would be consistently heard by the Force Board within six months of the incident—which is acceptable. The PPB will have to allocate sufficient staff to the Detectives, Internal Affairs, and Training divisions to make these benchmarks achievable. Representatives of all three divisions have asserted that staffing shortages have been the principal cause of significant delays in the investigative process. Coordination between Internal Affairs and Training as to the order in which they review these cases would also be beneficial.

Recommendation 2006.7: The PPB should set individual stage and case-long benchmarks so that, barring good cause, Force Board hearings will be conducted within six months of the incident.

Finally, one involved member was accompanied to her appearance before the Force Board by her sister. Two union representatives were also present. It seems reasonable, barring medical necessity, to restrict those who accompany an involved member before the Force Board to union representatives or attorneys.⁴³ Bringing a relative (which, for instance, would not be allowed before a grand jury) might tend to unreasonably deter board members from asking appropriate questions to avoid putting the involved member in a poor light in front of a family member, or might tend to unduly inhibit the member's answers for fear of embarrassment before a relative.

Recommendation 2006.8: Barring medical necessity, involved members should be limited to being accompanied in their appearance before the Force Board to a union representative or an attorney.

⁴³ It would be totally unobjectionable for a relative to accompany an involved member to the building and to wait outside the hearing room while the member made his/her presentation.

B. The Policy

PARC recommends that Section 335.00 be amended to eliminate contradictions and ambiguities, fill in gaps in the policy, and make it conform to the new practices the Bureau is following since the policy went into effect. We first recommend that the redrafted policy create entirely separate sections for the Performance Review Board and the Force Board. While the two boards share some overlapping procedures, they have different functions and procedures that differ in many respects. Combining the two boards into one policy creates confusion and appears to have led to inadvertent drafting problems. Among the drafting issues in Section 335.00 are the following:

- Because the Policy Manual does not divide its sections into numbered subdivisions and paragraphs, but rather uses only subject headings to divide up sections that sometimes run for many pages (Section 335.00, for example, is 10 pages long), there is no clear structural framework to policy provisions, thus making the possibility of gaps or conflicts more likely.
- The review to be conducted by the Training Division is provided for under the heading “The Bargaining Units’ Responsibilities.” These provisions seem to require that the Training Division review the file after the involved member and his representative have reviewed the case file. But both logic and the actual practice dictate that the Training review happen far earlier, while Internal Affairs is doing its investigation.
- The heading “The Bargaining Units’ Responsibilities” and the heading “Use of Force Review Board Procedures” contain parallel and almost entirely duplicative provisions about Internal Affairs’ responsibilities.
- Under the heading “The Bargaining Units’ Responsibilities” and under the subheading “Branch chief review,” the unit commander is given 21 days to review the file and make a finding. But under the heading “RU Manager Responsibilities (or his/her designee),” the unit commander is given 14 days to make a finding.

- Under the heading “The Bargaining Units’ Responsibilities” and under the subheading “Branch chief review,” the Assistant Chief is instructed to review the file and then to forward it to Internal Affairs. This provision does not allow the Assistant Chief to take any action other than reviewing the file and passing it along. But under the heading “Branch Chief Responsibilities (or his/her designee),” the Assistant Chief is given detailed instructions as to what to do if s/he agrees with the unit commander’s recommended finding and discipline, and no instructions as to what to do if s/he either disagrees with the unit commander’s recommended finding or discipline, or if the unit commander makes no recommendation for discipline. Under the latter heading, the Assistant Chief is further instructed that if his/her determination is to seek less than a suspension, the case is to be sent back to the unit commander for discipline, and apparently no Force Board will be convened.
- “Deliberations and voting” are provided for without any elaboration under “Affected Members’ Responsibilities.” Because the provisions about “affected” members and “deliberations and voting” come at the end of all the specific Performance Review Board provisions and before any of the specific Force Board provisions, a fair reading of the section leaves one in doubt as to whether these provisions apply to Force Boards or only to Performance Boards.
- The same placement problem applies to the provisions relating to “Chief of Police’s Responsibilities.” Do those provisions apply only to Performance Boards, as the section’s structure suggests? If so, the Chief of Police has no stated role or responsibilities after a Force Board review.
- It is unclear what an “affected” member is. The first paragraph of the “Affected Members’ Responsibilities” subdivision refers to an “involved” member, which is a term defined in Section 335.00. How an “affected” member differs from an “involved” member is not explained. Also, under the heading “Use of Force Review Board Procedures,” the term “suspect”

member is used. “Suspect” in this context seems an inappropriate substitute for “involved.”

- Under the heading “Review Board Coordinator Responsibilities,” the Force Board is to be convened “as soon as it is reasonably possible to do so,” but only in cases where the involved member is facing a suspension or more serious punishment. Under the heading “The Bargaining Units’ Responsibilities,” however, the Force Board is to be convened within 21 days.
- Under the heading “The Bargaining Units’ Responsibilities,” the involved member and his/her representative are twice given 14 days to review the file. Following the second of these duplicative provisions, the Internal Affairs commander is told to review any discrepancies alleged by the involved member and then to send the case to the unit commander for findings. But under “Use of Force Review Board Procedures” and actual practice, the Internal Affairs commander is supposed to send the file to the unit commander for findings and the after action report well before the involved member reviews it.
- Although one or more representatives of the involved member’s bargaining unit have been allowed in practice to witness the Force Board presentations, the policy does not authorize the presence of union representatives. The policy should be amended to provide for the presence of one representative of a bargaining unit of the involved member(s) and should make clear whether they may be present for the entire presentation or solely when the involved members are presenting.

Notwithstanding the drafting issues and contradictions, the PPB seems to have worked out a sensible set of Force Board procedures that it follows in actual practice. While most of those procedures are consistent with at least one part of Section 335.00, the need for redrafting the Section is pressing.

Recommendation 2006.9: The PPB should redraft Section 335.00 so as to remove the inconsistencies and lack of clarity in the present provision.

C. Follow-Up on Previous Recommendations

Recommendation 6.7: *The PPB should revise Section 1010.10⁴⁴ to make the unit commander a non-voting member of the Review Level Committee when it reviews officer-involved shootings, other deadly force cases, and in-custody death incidents.*

This recommendation has not been implemented. Despite making a number of structural improvements in the executive review of officer-involved shootings and other deadly force incidents, the PPB, in formulating the Force Board, chose to leave the involved member's unit commander as a voting member of the board. Doing so creates an inherent conflict of interest and gives the unit commander two bites at the apple. At the time of our original report, participants in the former review process described the role the unit commander played as acting like the lawyer for the officer. That has not changed.⁴⁵ During one of the initial meetings of the Force Board, one unit commander so harshly and repeatedly attacked one of the presenters that other members of the board stated they were intimidated from making any comment or asking any question that might seem critical of the involved officer.⁴⁶

⁴⁴ Relevant Review Level Committee provisions were found in Section 1010.10. Since July 5, 2005, the Use of Force Review Board has replaced the Review Level Committee. The policy governing the Force Board is found in Section 335.00.

⁴⁵ The way in which the unit commander advocates for his/her officer is not unique to the PPB. For instance, we have seen commanders play the same role at numerous boards, including the force review board, at the Los Angeles County Sheriff's Department. The difference in Los Angeles County is that the unit commander participates in the meeting but does not have a vote.

⁴⁶ The difficulty that a unit commander has in objectively reviewing his officer's actions is also illustrated by the outcome at the Review Level Committee on one of the cases we reviewed this year. All three Assistant Chiefs found that the officer had acted out of policy and recommended serious discipline. The unit commander, however, voted to find that the officer had acted within policy.

By making the unit commander a voting member of the Force Board, the commander plays multiple roles, magnifying his or her influence. In all cases the unit commander drafts an after action report that reviews and critiques the incident. By voting on the Force Board, the unit commander in effect is given the opportunity to review his or her prior review. Moreover, in a certain percentage of deadly force incidents the unit commander is involved in making one or more decisions during the incident itself. Not only do unit commanders play a role in the deliberations and vote like all the other board members, but they shape the presentation to the board on which they participate. If evidence of policy violations is raised by the Internal Affairs' administrative investigation, the unit commander is required to make recommendations (known as findings) of the conclusions the board should reach on those issues. It will be a rare case where a unit commander fails to follow his or her prior recommendations. All of these circumstances demonstrate the inappropriateness of the unit commander being a voting member of the Force Board.

When the PPB revamped its executive review procedures, its principal model for the new Use of Force Review Board was the Phoenix Police Department's Use-of-Force Review Board. The procedures in Phoenix, however, provide as follows: "Individuals in the affected employee's chain of command will not be selected to participate in the review board."⁴⁷ Phoenix, as well as most other police departments nationally with such boards, recognizes that it is inappropriate for a commander whose prior work is being reviewed to be one of the reviewers. Indeed, the Phoenix PD set forth a specific provision of what should happen if the board and the unit commander disagree in their recommendations.⁴⁸ We continue to recommend that the PPB eliminate the structural conflict of interest created by including the unit commander on the Force Board.

⁴⁷ Phoenix PD Operations Order 3.18(8)(B)(2), reproduced at page 231 of the Appendix to the 2003 PARC Report. The Phoenix force board is composed of an assistant chief, a commander, a peer of the employee, and three citizens.

⁴⁸ Phoenix PD Operations Order 3.18(7)(B)(1)(b), reproduced at page 230 of the Appendix to the 2003 PARC Report.

Recommendation 6.8: *A civilian from outside the Bureau should be made a voting member of the Review Level Committee. The outside committee member should be chosen in a manner decided by the City's elected officials.*

The PPB has commendably gone beyond PARC's recommendation on this point. Not one, but two citizen members are chosen for each Force Board from the pool of 24 selected citizen volunteers. With nine total members on the board, the Bureau made an excellent decision to include two, rather than one, citizen members. The inclusion of citizen members should foster more complete consideration of deadly force cases, greater accountability for officer and supervisory actions, and increased public confidence and community trust.

Recommendation 6.9: *The PPB should amend its policy and its practice to make the commanding officer of the unit conducting administrative investigations of officer-involved shootings and in-custody deaths, and the commanding officer of the Training Division, non-voting members of the Review Level Committee.*

The intent of this recommendation has been fully implemented. Under current practice, the Detective, Internal Affairs, and Training divisions all make presentations and answer questions about their investigations of the deadly force incident in question. The commanding officers or other ranking supervisors from the three divisions attend the meetings. While the division of responsibility for the presentations differs from what we recommended, the policies and procedures now being followed by the PPB are fully consistent with the intent of this recommendation.

Recommendation 6.10. *All officer-involved shooting and in-custody death incidents should be presented to the Review Level Committee. The PPB should develop a tracking system to ensure that all such incidents are presented.*

The Bureau has fully implemented this finding. Section 335.00 appropriately mandates Force Board review of all officer-involved shootings and in-custody deaths. The Bureau has created a tracking system and procedures that are generally effective in ensuring that cases that should be reviewed do not fall through the cracks. In one recent instance, however, a case with idiosyncratic elements⁴⁹ did fall through the cracks due to human error. It is our understanding that that case is now being scheduled for a Force Board presentation.

Recommendation 6.11. *PPB policy should be amended to require that full written findings be provided to the Chief to explain and document each Review Level Committee determination on officer-involved shooting and in-custody death cases.*

Not only has the PPB not implemented this recommendation, but its policy and practice on this point have regressed. Under prior procedure, the Review Level Committee produced a boilerplate two-sentence summary and recommended finding on each case, as well as keeping a written voting log signed by each committee member and documenting how that member voted. While the prior documentation was far less substantive than it should have been, it was a better practice than is currently followed. Section 335.00 is silent as to what form the Force Board’s determinations should take. Current practice is that the Assistant Chief for Services, who chairs the board, orally reports the board’s recommendations to the Chief. Although the Review Board Coordinator keeps notes, no formal document—other than a letter to the involved officer stating the board’s conclusion⁵⁰—records the result(s) of the process, who voted either for or against those results, or why a decision was reached.

⁴⁹ The shooting involved a reserve officer who subsequently resigned from the PPB. No injuries occurred in the incident.

⁵⁰ Where the Chief has followed an “in-policy” recommendation, the text of the letters from the Chief reads as follows: “On [date], the Use of Force Review Board met to review this case. Based upon the recommendation of the Board, I find your use of deadly force on [date], to be within the guidelines of Bureau policy and procedures.”

PARC continues to recommend written findings for the following reasons. After having been provided with the analysis the board used to reach its conclusion, the Chief would have more information upon which to make the ultimate determination about the case under review. Second, a self-regulating system needs transparency so that outsiders (and those in the Bureau who are not directly involved in the review process) can determine what happened, and decide whether or not they have confidence in the result and in the process. Third, written findings create a historical record, both at the time of the findings and years later, if it becomes relevant to determine what happened on a particular case or group of cases. Fourth, the knowledge that others will be able to read the board's findings helps give structure to board deliberations and fosters accountability. Finally, the Bureau's capacity to respond to the lessons identified in the review process is severely hampered if there is not an adequate record of the concerns of the board on that score.

We would add that in cases where part of the board disagrees with the majority's conclusion, a written statement of the minority's reasoning and analysis would be helpful to the Chief. Indeed, without a written statement of their position, the minority effectively has no voice. With both sides' views articulated in writing, the Chief will better understand both sides' conclusions and how they reached them. The Chief will then be able to make a more informed ultimate decision on the pertinent issues. Moreover, even among those who voted for the majority conclusion, there may be significant differences of opinion on crucial issues that should be documented for the Chief and the record.

With respect to formal lack of documentation of what occurred at a Force Board proceeding, we note that every other part of the process—the Homicide investigation, the Internal Affairs investigation, the Training Division analysis, the after action report, the unit commander's findings—is not only documented in writing, but supported by analysis and reasoning. We are unaware of any other force review body that does not document its conclusions. The Phoenix Use-of-

Force Review Board, upon which the PPB principally modeled the Force Board, makes its recommendations in writing. So does the Los Angeles County Sheriff's Department Executive Force Review Committee and Los Angeles Police Department's Use of Force Review Board. Portland's Force Board should document and explain its conclusions just as other similar bodies do.

Recommendation 2006.10: In addition to submitting full written findings to the Chief related to each determination it makes (and to each minority position, if any), the Force Board should document not only each determination it makes but also which members voted for or against that determination, or abstained.

Recommendation 6.12: *The PPB should develop procedures for the Review Level Committee that require members to vote based upon their best judgment of the relevant facts and circumstances and that encourage dissent when appropriate.*

The Bureau appears to have implemented this recommendation.⁵¹ Two cases we reviewed for this report found at least some of the involved officers' conduct unjustified. And in one of those cases, the committee members were substantially split as to the finding and to the appropriate discipline. We found these signs of debate and disagreement to be indicative of a healthier process.

In the substantially revamped review process that currently exists, we discovered a related but new problem. When we interviewed the peer officers who had participated in the initial Force Board proceedings, all but one admitted a

⁵¹ The initial recommendation stemmed from a concern that the culture of the Review Level Committee created an expectation that each member of the committee would vote to find every use of deadly force justified, no matter what the circumstances. Based upon interviews we conducted in 2002, no member of the Bureau could remember a single Review Level Committee member ever voting that the use of deadly force had been unjustified. Every review resulted in a unanimous finding of "justified."

strong fear that they would be retaliated against if they said or voted in a way inconsistent with the police managers and executives in the room. Among other things, they saw the way that a unit commander attacked the presenter from Training who raised issues about an involved member's actions as a lesson to keep their mouths shut and to do what the bosses wanted. They talked of their perception that rank and file members of the Bureau are retaliated against for speaking uncomfortable truths. And they said that they were convinced that some people on the Force Board would make sure that their careers suffered if they were perceived to be disagreeing with those in authority. Interestingly, the citizen members we interviewed expressed no reluctance to express their opinions without fear of adverse consequences.

The peer officers said that while they were skeptical that anything the Bureau could do would make them feel comfortable in saying what they really thought, an orientation for them related to the Force Board process and their role in it, coupled with assurances from the Bureau, would maximize the chance that they would feel a little more comfortable speaking their minds. The concerns that we identified were communicated to Chief Sizer by the IPR Director. In response, Chief Sizer wrote a memorandum⁵² to all the Force and Performance board members, stating in pertinent part:

I also wanted to take an opportunity to outline my expectations of board members. I believe that the purpose of the Use of Deadly Force and Performance Review Boards are to foster honest discussions with varying viewpoints. You were chosen to be a part of these panels because you bring a unique perspective to the table. By themselves, each opinion remains a single element. But together, all the viewpoints become a well-rounded and thoughtful discussion and lead to the best recommendations.

⁵² A copy of Chief Sizer's May 10, 2006 memorandum is reproduced at Appendix page 14.

I want to ensure that the original intent of the Use of Deadly Force and Performance Review Boards is carefully nurtured, because it is so vital to the success of this effort. Thoughtful words and diverse opinions will never be disrespected; and an atmosphere that does not support this honest dialogue will not be tolerated.

Chief Sizer's memorandum set the right tone in a forthright manner. What we do not know is how effective it—and various personnel changes—may have been in conquering the peer members' concerns.

Recommendation 2006.11: The PPB should periodically conduct anonymous surveys of the peer and citizen Force Board panel members to evaluate the process. Particular emphasis should be placed on eliciting peer members' views on their ability and willingness to express candid opinions and to vote in accordance with their best judgment.

Without feedback, problems in the process are less likely to be identified, particularly if the problems are principally in the eyes of non-command staff board members. In light of the concerns of peer members of possible retaliation, it is important that the feedback be sought anonymously and that careful thought be given to ensuring that the peer members feel confident that anonymity will be preserved.

Recommendation 6.13: *The investigators who conduct the administrative investigations should take the lead in presenting officer-involved shooting and in-custody death cases to the Review Level Committee.*

This recommendation has not been implemented. Because the administrative investigation of deadly force incidents still plays second fiddle to the criminal investigation, it is not surprising that the Homicide detectives give

the primary presentation to the Force Board. Our concern that the criminal rather than the administrative investigators are taking the lead in presenting cases to the Force Board is but a small part of our concern that the PPB has not established a process for adequate administrative investigations. Unless the PPB creates an effective model for administrative investigations, its investigative and review process for deadly force incidents will not serve the wider interest of eliciting all important lessons to be learned from a given incident. Whether an incident is in policy is certainly an important question. Of equal importance, however, is learning whether a death or serious injury could safely be avoided in similar circumstances in the future.

Recommendation 6.14: *The administrative investigators should present a complete file—regardless of the form of the evidence, and specifically including video and audiotapes and photographs—to committee members in advance of the committee meeting, and should likewise present all evidence they deem pertinent to the Review Level meeting, regardless of the form that evidence takes.*

The Bureau has implemented this recommendation. By all accounts the tripartite presentation to the Force Board by Homicide, Internal Affairs, and Training is thorough—in the opinion of some, too thorough or duplicative. Thus, completeness at the Force Board does not seem to be an issue.

When Force Board members review the file before the board meets, they are provided all the documents in the file, a selection of the photographs taken, and compact disks of 911 calls and radio transmissions. They are not provided audio or video tapes unless they make a special request for them—which never occurred in the preparation done for the first four Force Board presentations. Nor have any citizen or peer board members asked for access to a computer to listen to

compact disks.⁵³ It would be better practice to make all the photographs and the audio and video tapes available without the hurdle of their having to be specially requested, and to provide audio and video equipment in the room where the peer and citizen members review the files. That way the *entire* file can be reviewed if the board member wishes.

The unit commanders and Assistant Chiefs on the board will have such equipment available when they are reviewing a file. But they too have to be informed that they have an easy way to get access to tapes and additional photographs, if they seem pertinent.

Indeed, we learned that Training experiences similar problems with the files it receives from Homicide. They lack video of the scenes and include only a selection of the photographs taken.

Recommendation 6.15: *Before a meeting of the Review Level Committee on an officer-involved shooting case or an in-custody death incident, the Training Division should prepare a written analysis of the tactical and training issues involved and circulate that analysis to committee members in advance of the meeting.*

This recommendation has been fully implemented in both policy and practice.

Recommendation 6.16: *The PPB should amend its policy to increase the options the Review Level Committee has for outcome determinations so that those options cover the different levels of review: legal, policy and tactical.*

⁵³ Listening to 911 calls and radio transmissions is often essential to achieve a good grasp of what occurred during an incident.

This recommendation has not been implemented. The focus of the Training Division on tactics in its presentation to the Force Board, however, is an important step in the right direction.

It is important that the review body address not only policy questions, but also tactical issues. Considerably more often than not, the most important—and often, the only—disputed issues in a deadly force case will involve the tactics. Poor tactics frequently lead to shootings (which, more often than not, are in policy), where good tactics might have led to the situation being resolved without the use of deadly force. It is important, therefore, for the review body to have available and to address outcomes that relate to tactics as well as policy. We recommended adopting the potential findings employed by the Metropolitan Police Department in Washington, D.C. Those four options are: justified, within departmental policy; justified, policy violation; justified, tactical improvement opportunity; and not justified, not within departmental policy.⁵⁴

Force Board members and others present during the initial four cases reported that the discussion and deliberations following the quite detailed presentations were often not particularly well focused. Some peer and citizen members expressed disappointment with what appeared to them to be a rather perfunctory conclusion to a process that involved a great deal of time and effort from many people, though they pointed out there was little question about the use of deadly force being justified in any of the cases. One observer stated that the process needs to become more sophisticated in identifying issues that require improvements in policy, tactics, and training development. If the Force Board were required in the future, however, to reach conclusions about the appropriateness of the tactics employed, the board's deliberations would be more focused and its outcomes more specific and helpful. Requiring the Force Board to

⁵⁴ See the 2003 PARC Report at pages 156-57 for a fuller discussion of these options. The review options are set forth in Metropolitan Police Department General Order 901.08, Use of Force Investigations at 14 (October 2002), which is included in the 2003 Appendix at page 145.

make a judgment on the tactics employed would materially improve the review process.

It is in the area of tactics that mistakes are most likely to be made. A credible review process identifies mistakes and takes steps calculated to avoid their repetition. The Training Division's analysis of and presentation to the board on tactics is an important innovation of the Force Board process. Moreover, one particularly positive development from the initial Force Board proceedings is the focus that has been placed upon effective supervision in critical incident situations. From its inception the Force Board has addressed this critical issue, referring cases involving perceived ineffective supervision to the Performance Review Board.

Despite significant improvements in practice, PPB policy should be changed to ensure that the Force Board makes a judgment on the appropriateness of the tactics employed in deadly force incidents. Not to do so creates significant risk that these important questions are not going to receive the attention they deserve, to the detriment of both the PPB and the community at large.

Recommendation 6.17: *The Review Level Committee should seek to obtain additional information whenever the committee determines that such information would assist it in fulfilling its responsibilities.*

It is not clear whether this recommendation has been implemented. Section 335.00 does not address the subject of this recommendation, and based upon our interviews, the need for additional information did not arise in the first four Force Board presentations. It is important, however, that the Force Board have the authority and the inclination to request additional information if it is not initially presented.

Recommendation 6.18: *The PPB should create systems that ensure that all lessons learned — both successes and failures — are systematically identified and followed up on.*

The Bureau has implemented this recommendation. Section 335.00 provides: “The UFRB may also suggest action items to address training or policy issues that have emerged from an investigation or various investigations.”⁵⁵ In its initial proceedings the Force Board has taken the opportunity to identify a number of action items. Starting in January 2006, the Review Board Coordinator has been tracking each action item and sending reminders every two weeks to the persons tasked with resolving them. Unlike in the past, there is strong follow-up to seek to ensure that action items are in fact taken care of.

In addition to the items identified by the Force Board, the Training Division during its analysis of deadly force incidents identifies numerous tactical and training issues and makes changes to its academy and in-service curricula as needed, without a direction from the Force Board.

The review process is fundamentally about learning lessons and taking constructive steps to improve what has been identified as needing improvement. This is happening under the Force Board process, where it largely had not been under the Review Level process.

⁵⁵ “The Use of Force Review Board Functions,” (c), set forth at Appendix page 5.

III. Awards⁵⁶

Recommendation 6.19: *The PPB should revise its awards policy and procedures in officer-involved shooting and in-custody death cases to ensure that the Award Review Committee and the Chief are aware of all facts and circumstances relevant to the appropriateness of an award that were revealed in the investigation of the incident, in the after action report, and in the Review Level Committee proceedings.*

Collectively, the PPB's policy and procedure changes satisfy the intent of this recommendation. In 2005, the PPB amended Policy Manual Section 210.90, Recognition and Awards, "Procedure," to include the following language:

The [Award Review Committee] facilitator will review Awards Committee recommendations and contact the Use of Force Review Board Coordinator ... to determine if the UFRB has made any findings on cases related to the award recommendations. The UFRB findings will be added to the Awards Committee recommendations before forwarding to the Chief of Police.

The revisions to Section 210.90 also added a requirement that recommendations for the two awards most likely to be conferred on officers for their involvement in shooting incidents must be reviewed by the Assistant Chief who heads that officer's branch before being forwarded to the Chief. At the same time as the policy changes were put into effect, PPB procedures were changed so that no award to an officer will be issued

⁵⁶ In the 2003 PARC Report we looked at the award process as it related, or should have related, to the review process. Both the review process and the award process look retrospectively at events and make judgments about what occurred. Review seeks to foster accountability and identify lessons learned. Awards seek to reward for exemplary behavior. Because meaningful review requires an evaluation of the strengths and weaknesses of an officer's performance, the judgments that must be made in each process are similar in nature, even if different in purpose. Insofar as the Bureau's interests are implicated by the intersection of these related analyses, the Bureau should want to avoid having an officer who was criticized in the review process be rewarded for dubious conduct, and ensure that officers who exhibited exemplary behavior are recognized. Secondly, the Bureau should want to refer back to the Force Board for possible further analysis any new information that surfaces in the award process.

concerning an incident that is required to be heard by the Force Board until the Force Board has reviewed that incident.⁵⁷

Recommendation 6.20: *The PPB should revise its awards and Review Level policy and procedures in officer-involved shooting and in-custody death cases to require that the Awards Review Committee facilitator advise the Review Level Committee in writing of any information revealed in the awards process that was not in the investigative file, the after action report, or the Review Level Committee's records. Upon receipt of notice of such new information, the Review Level Committee should consider whether to reopen its review of the incident, with or without further administrative investigation.*

The PPB has taken no action to implement this recommendation. While the more thorough review process now in place makes it less likely that an allegation against an officer would first come to light in a document submitted in the awards process, the PPB would be wise to devise a procedure for having the Award Review Committee forward to Internal Affairs or to a reconvened Force Board any information it might receive that alleges or suggests inappropriate conduct by an officer in a deadly force incident.

⁵⁷ In one of the cases reviewed for this report (which, of course, preceded the changes in awards procedures), awards were conferred on members one and one-half years before the case was examined by the Review Level Committee.

3. Responses to PARC's Recommendations On Management of Records and Information

Recommendation 8.1: *The PPB should proactively study its data on officer-involved shootings and in-custody-death incidents to assist its efforts to prevent avoidable shootings and deaths.*

To date, the PPB has not implemented this recommendation. There are plans, however, for a PPB internal audit unit. If it in fact is established, we encourage the PPB to give it the responsibility of implementing this recommendation.

One of the principal innovations in policing over the past 15 years has been the use of information to accomplish both law enforcement and organizational goals. Analyzing data about numerous incidents often reveals patterns and other valuable information that are not readily apparent studying incidents one at a time.

If an internal audit unit is not established, we encourage the Bureau to assign this task to another suitable unit. Preventing even one officer-involved shooting would more than offset the financial costs of implementing this recommendation—not to mention the incalculable nonfinancial benefits to the PPB, the officer who would have used deadly force, the subject who would have been the target of that deadly force, families of both the officer and the subject, and the community at large.

We stress that we understand and appreciate that there are instances where deadly force is appropriate and necessary. We similarly appreciate the risk to an officer from hesitating in the face of a deadly threat. It is important to distinguish between necessary and justified uses of deadly force and unnecessary and

avoidable uses of deadly force, even if justified. Put another way, if there are equally effective tactics or strategies to stop an individual other than by deadly force, they should be preferred and used in lieu of deadly force as long as officer safety is not compromised.

Recommendation 8.2: *The PPB should develop procedures and systems to accurately and completely capture and aggregate data on officer-involved shooting and in-custody death incidents in a manner that facilitates analysis of those data.*

The Bureau has implemented this recommendation. The PPB has made changes to its case coding systems so that officer-involved shooting and in-custody death cases dating back to 1985 can be readily identified and data related to them can be analyzed.

Recommendation 8.3: *The PBB should retain all records related to officer-involved shooting and in-custody death incidents for at least 25 years. Any otherwise applicable provision that requires longer retention than the period set for officer-involved shooting and in-custody death records should continue to be controlling.*

The PPB has implemented changes in its record retention policy for officer-involved shooting and in-custody death cases that are better than those that we recommended. Such records, including tapes that in the 1990's were recycled for use in other cases, are now kept permanently—an improvement over the minimum of 25 years that we recommended. All officer-involved shooting files dating back to 1985, even if no death occurred, are segregated with the PPB files on homicides to make them more readily accessible than would be the fact for older nonhomicide files.

Recommendation 8.4: *The PPB should create procedures and systems that allow it to locate whatever records it possesses.*

The Bureau's changes in case coding and file storage for officer-involved shooting and in-custody death cases demonstrate appropriate steps to implement this recommendation.⁵⁸ At least with respect to the deadly force cases that are the subject of our studies, the segregated storage of the principal files should go a long way in obviating the problems that led to this recommendation.

Recommendation 8.5: *IPR, in consultation with the PPB, should create procedures to obtain the records needed for future reviews of officer-involved shootings and in-custody deaths on a reasonably contemporaneous basis. IPR should store those records until needed for the review.*

This recommendation has been implemented. The PPB and IPR began implementing this recommendation shortly before our 2003 Report was officially released, by sending IPR a copy of the Homicide investigation on officer-involved shootings shortly after the investigation was completed. IPR thus already possessed a substantial portion of the records needed on several of the cases we reviewed for this report. In subsequent years IPR should have in its possession the principal portion of the files PARC will review. That portion of the necessary records will not have to be requested from the PPB.

We further note with approval that the files we reviewed for this report were significantly more complete and better organized than was the case for the 1997-2000 files we reviewed for our first report. The Bureau has taken positive steps and has in fact markedly improved its compiling and maintaining of records

⁵⁸ Without requesting records from old cases—as we did of necessity when reviewing the 1997 to 2000 incidents for our 2003 report—we cannot really know whether the Bureau can locate specific records when needed. We found in connection with the original report that the PPB often could not find records that once existed, and probably were still somewhere in its possession.

that PARC reviews pursuant to its contract with the City of Portland. One additional improvement that we recommend is the thorough indexing of files, particularly in the occasional circumstance that an incident generates a massive file.

Recommendation 2006.12: Files on cases going to the Force Board should be thoroughly indexed, particularly if the files are larger than average.

4. Incident Reviews

For this report, PARC reviewed 10 2002-2003 officer-involved shootings to determine whether there were policy issues and patterns that the PPB should address. Consistent with the City Council ordinance authorizing this study, PARC did not re-investigate these 10 cases nor attempt to reach conclusions whether individual shootings were justified or particular officers' conduct was proper or improper. Rather, our review was calculated to make observations and draw lessons that will assist the PPB to devise better tactical and strategic training options for its officers, improve the quality of supervision and management, avoid unnecessary shootings, and better investigate and review deadly force incidents. In this chapter, we look at issues related to risk management and tactics, and the quality of the internal investigations of these shootings.

As noted in the Introduction, all but one of the shootings reviewed for this report occurred *before* the PARC Report was issued in 2003. Thus, there is no expectation on our part, and should be no expectation on any reader's part, that what occurred in all but that one case could have been influenced by the PARC Report's conclusions and recommendations. Nonetheless, these cases provide opportunities to learn lessons for the future from the events of the past.

I. Case Characteristics

We briefly describe a few salient characteristics of the incidents, the suspects, and the officers.

Five of the 10 incidents involved suspects with guns, four of which were operable and the other of which was a realistic looking toy. Three of the suspects with guns shot at one or more officers. One officer was seriously wounded and narrowly escaped death, while several other officers fortuitously avoided any injury. One suspect was armed with

scissors. In two cases the officers perceived themselves to be in danger from a moving car. In another case the officer fired a single shot, perceiving what turned out to be a key ring as a gun. In the final case no weapon was seen, but there were conflicting accounts among the officers as to whether one of the running suspect's hands could be seen.

The officers' shots were directed at 10 suspects, and in one incident into a car that contained a suspect and two uninvolved passengers. Six suspects were hit by one or more bullets, with two suffering fatal wounds.⁵⁹ Four suspects were not hit. While there have been and will continue to be contentions as to whether some of the shootings and some of the shots fired were justified,⁶⁰ none of the shootings appeared from the evidence in the file to be gratuitous.

Of the suspects, seven were white males, three of whom had guns or what appeared to be a gun. One of the armed white males shot at multiple officers. The single Latino and Asian males each were armed and fired their guns at one and two officers, respectively. The tenth suspect was an African American female who was behind the wheel of a car which the officer perceived as endangering him. The suspect with the keys that the officer said he originally thought was a gun and the suspect whose hand some officers said was not visible were both white males. The suspects killed by the police were the African American female and the white male with the realistic-looking toy gun. The Asian male killed himself after being wounded by the police.

Many observers of contemporary American society believe that race and ethnicity are subconscious factors in many interactions that occur daily in this country. Whether subconscious factors played any role in shaping any of these officers' perceptions of danger or threat is impossible to say. Speculation on that point would serve no useful

⁵⁹ One of the suspects wounded by the police killed himself before the incident ended. Several advocates raised the question as to whether a police bullet might have in fact have been the cause of death. The file, however, contains overwhelming medical, physical, and civilian eyewitness testimony that the fatal wound was self-inflicted.

⁶⁰ It was not only outside the scope of this review for PARC to reach conclusions as to whether the shootings were justified, but in many cases it would be impossible to make such a determination to a reasonable degree of certainty based solely upon the material in the files we reviewed.

purpose. On the other hand, we emphasize, as we did in the 2003 PARC Report, that our in-depth case-by-case analysis of the files we reviewed this year revealed no indications of racial or ethnic bias.

In the 10 cases we reviewed, three sergeants and 16 officers fired their weapons—or in one instance, a sergeant ordered an officer to shoot. One of those sergeants and seven of those officers were involved in a Special Emergency Reaction Team (SERT) call-out to one incident. Thirteen of the involved Bureau members were white and one Asian. The race or ethnicity of the remaining five was missing from the files. All 19 were male. Eight members had between 11 and 24 years of experience with the PPB; eight had between three and nine years; and three had between 11 and 25 months experience.

II. Tactical and Risk Issues

Police work at times is dangerous. The rare situations that threaten officers' lives or the lives of others are interspersed among countless day-to-day interactions with the law-abiding public and with lawbreakers who pose no threat. In certain of those dangerous situations, officers will have no good option but to use deadly force. In other instances, different strategies or tactics might have obviated the need for deadly force. Officers often need to weigh the risks of taking quick action with insufficient information or resources against the risks of waiting sufficient time to muster the information and resources. It can be the case that officers who employ deadly force may have unnecessarily put themselves in a position of mortal danger. Analysis of recurrent patterns in deadly force cases permits law enforcement executives to identify such patterns and revise training and policy accordingly.

In five of the 10 cases we reviewed this year, we found recurring patterns where officers seemed to take quick action when more information or resources may have produced a better outcome. The danger to PPB members and civilians may have been

lessened if the officers had waited for backup or called upon specialized PPB units before responding alone. Examples include:

- A delay in calling SERT in circumstances where PPB policy required that SERT be notified.
- Patrol sergeants devising a plan that put officers and members of the public at risk of death, in circumstances calling for the expertise of a specialized tactical team and where there was time for SERT to respond.
- An officer engaging in a solo foot pursuit with no cover and at a minimal distance from an armed robbery suspect, putting himself at risk of being shot. Additionally, the officer did not radio in the initial stop of the suspect, thereby minimizing the chances of backup if the officer found himself in trouble.
- Police unwittingly entering an apartment occupied by a sniper firing automatic weapons at the m, because sufficient intelligence had not been gathered beforehand.
- An officer seeking to arrest a much larger suspect in circumstances where there was time for a backup officer to respond before initiating the apprehension.⁶¹ Because the officer did not correct an error by the dispatcher, the location to which backup should respond was not immediately broadcast, leaving the officer alone to face the suspect.

Recommendation 2006.13: The PPB should further emphasize scenarios in academy and in-service training that help officers weigh the types of risks in dangerous situations, the availability and desirability of additional resources, and the types of exigent circumstances that would influence each tactical alternative.

⁶¹ The precinct adopted a new procedure requiring that, absent exigent circumstances, such arrests should be initiated only when at least two officers are present. This procedure should be made effective across the Bureau.

Scenario training should also seek to sharpen officers' skills in distinguishing guns from other shiny objects, such as cell phones or, as occurred in one case reviewed, keys.

In four instances, we found that officers took action seemingly without full appreciation of risks of harm to themselves or others.⁶² Since we have addressed these risks in our prior reports, we offer the examples for guidance to the PPB as it formulates new policies and training on officer safety and reduction of risk to uninvolved third parties.

One factor that has been demonstrated to appreciably reduce the incidence of officer-involved shootings is the rapid appearance by supervisors at the scene of a critical incident.⁶³ Generally, a sergeant is the first supervisor either at a critical incident or exercising supervisory control over the radio. Based upon our observations from reviews of seven years of officer-involved shootings in Portland, and based upon our general knowledge of the often heavy responsibilities placed on sergeants, it seems desirable that sergeants, particularly ones with relatively little experience, be encouraged to seek advice, when needed, concerning decisions to be made in critical situations. The PPB informed us that if a neighboring precinct were on the same radio net, a more experienced sergeant might take the initiative to reach out to assist a newer sergeant. On a majority of shifts a lieutenant is on duty and should be available for consultation. When no

⁶² Briefly, the four incidents involved the following circumstances:

- Without taking backdrop and danger to innocent third parties into account, an officer fired multiple shots at a fleeing gunman that struck a passing car and a car dealership during business hours.
- Without taking backdrop and danger to others into account, an officer fired shots at an unarmed suspect seeking to escape that narrowly missed several fellow officers.
- Without taking his own safety into account, an officer partially entered a car while seeking to extract the driver when it was predictable that the car would be put in gear.
- Without taking his own safety into account, an officer rammed the car of a suspect who had tried to shoot two officers when doing so could have trapped the officer in his car and left him at the mercy of the gunman.

⁶³ See the 2005 PARC Report at pages 51-52, including the discussion of the findings cited in Police Executive Research Forum, *Chief Concerns: Exploring the Challenges of Police Use of Force*, pages 10-11 (April 2005).

lieutenant is on duty, the precinct commander is on call. But many sergeants would probably find the prospect of calling their precinct commander in the middle of the night for advice a daunting prospect. If a sergeant requires advice as to the need to or desirability of activating SERT, the senior team leader of SERT, a sergeant, is generally available around the clock.

Recommendation 2006.14: The PPB should foster a culture and provide options that encourage sergeants dealing with critical situations to seek advice when they believe it will be useful and should help develop user-friendly mechanisms for sergeants to promptly obtain advice when a supervising lieutenant is not readily available.

No one has all the answers all the time. With all the responsibilities sergeants have, they should always have a welcoming place to turn for help if it is needed.

III. Quality of Homicide Investigations

This year, we reviewed only one homicide investigation that postdated publication of our 2003 Report. Although there were problems with respect to that particular investigation and some of the others,⁶⁴ there was one case we reviewed this year that particularly stood out because of the excellence of the investigation. In that case, Homicide conducted a superb investigation that thoroughly documented all the events leading up to and following the shooting, as well as the shooting itself. The investigation thoroughly analyzed the decision-making that led to the use of deadly force.

⁶⁴ One particular investigatory omission stands out because the circumstances could have cost two officers their lives. In the case involved, an unidentified squad car cut in front of the lead car in a vehicle pursuit, where speeds averaged 60 miles per hour. Even with taking evasive action, the lead car almost collided with the car cutting in front of it. Despite the issue being identified in the after action report, no investigation was conducted to determine the identity of the officer who had seriously endangered both the life of the driver of the lead car and his own life.

This case reinforced our confidence that the PPB is capable of conducting well-documented and unbiased investigations.

One additional issue presented by the Homicide investigations of the 10 cases from 2002 and 2003 we reviewed for this report is the continued advisability of using non-PPB detectives from the East Multnomah County Major Crimes Team—whose members include the Multnomah County Sheriff’s Office, the Oregon State Police, the Gresham, Troutdale, and Fairview police departments, as well as the Multnomah County District Attorney’s Office—to assist in investigating deadly force cases. The PPB’s Memorandum of Understanding with the East County Major Crimes Team⁶⁵ provides that the team will provide the PPB with two investigators for officer-involved shooting incidents in Portland. Generally those investigators will be from either the Sheriff’s Office or the Gresham Police Department.

Involvement of the team began in 1998 and has two purposes for the PPB. First, it provides additional detective resources on cases that require an intensive use of investigators. Second, it allows employees of another agency to participate, and to provide the appearance of greater objectivity, in the investigation. In our original report we spoke approvingly of the involvement of the East County Major Crimes Team based upon the perceived value of having members of a different agency involved in these investigations. The actual results of that involvement, and some problems we have observed, however, cause us to recommend that the PPB re-evaluate the involvement of the team in deadly force investigations.

What particularly prompted our concern about the outside detectives was the evidence we have seen that their work is sometimes considerably less proficient than that of their PPB counterparts. Because they are not Bureau personnel, a PPB supervisor cannot compel them, for instance, to take a training course in interrogation techniques so

⁶⁵ The Memorandum of Understanding between the Portland Police Bureau and East County Major Crimes Team in the Investigation of Officer Involved Use of Deadly Physical Force is set forth in the Appendix at page 15.

that they would ask better questions in the future. The PPB's inability to take corrective action to try to minimize the recurrence of performance issues demonstrates a weakness of having non-PPB personnel conducting PPB investigations. By using non-PPB detectives in these important investigations, there is less, rather than more, accountability.

In addition to the quality and accountability issues related to using the East County Major Crimes Team detectives, we question the validity of the rationale that using detectives from outside the Bureau will lead to more objective investigations. Our reviews of more than 50 investigations in which these detectives participated do not support that hypothesis.

Recommendation 2006.15: The PPB should study whether the benefits of using East County Major Crimes Team investigators on deadly force cases outweigh the liabilities of using those detectives. If the PPB decides to continue the relationship, it should develop improved accountability mechanisms and training for non-PPB personnel.

Finally, in two cases witness officers converted themselves into Traumatic Incident Committee (TIC) or Peer Support members right after the shooting occurred. TIC officers roll out to officer-involved shootings to provide emotional support to involved officers and to explain how the investigative process works.⁶⁶ Peer Support officers play the same role for witness officers in officer-involved shooting incidents. Both TIC and Peer Support operate under the aegis of the PPB's Employee Assistance Program (EAP).

TIC and Peer Support play important roles in providing support to officers who have used or witnessed the use of deadly force. Providing that support, however, should not occur in a way that compromises the integrity of the investigation. For officers to assume the role of TIC or Peer Support member in an incident where they are witnesses

⁶⁶ For a detailed discussion of the role TIC plays, see the 2003 PARC Report, pages 65-66 and 78-80.

undercuts that integrity. In fact, in one case we reviewed, the witness officer declined to answer some questions he was later asked by Internal Affairs based upon the assertion that the information sought was legally privileged because of his post-incident role as a Peer Support member.

EAP rules and policies, both in 2002-03 and at present, provide:

EAP members that are directly involved in a traumatic incident should not act in an EAP capacity unless requested by the on scene supervisor. EAP members that observe behaviors that indicate waiting for an EAP response would adversely affect the involved member(s) should consult with the on scene supervisor prior to taking any action. At all times members should make sure that the EAP Coordinator is notified to avoid any perceived conflict of interest.

To the extent that that rule allows involved or witness officers to become TIC or Peer Support officers in an incident where they are involved in or witnesses to the shooting, the rule is inappropriate. Switching from one to the other role creates a conflict, regardless of whether the switch is allowed by the on-scene supervisor or the EAP coordinator.⁶⁷

Recommendation 2006.16: The PPB should enact a policy that provides that involved and witness members may not become TIC or Peer Support members in an incident where they were involved in the use of deadly force or were a witness. The PPB should ensure that EAP changes its rules and policies to forbid such conflicts.

⁶⁷ Beyond being a disqualifying conflict, there is no need for witness or involved members to convert their status to TIC or other peer support members. We have been repeatedly told that TIC members arrive at the scene within minutes and often before the assigned detectives.

In addition to the occurrence of this conflict in two cases being a problem in itself,⁶⁸ it is a matter of concern that the conflict was not addressed in the investigations of these cases, even when the witness member declined to answer questions from Internal Affairs.

IV. Internal Affairs Investigations

In the reviews we conducted in 2003 and 2005, Internal Affairs investigations played no role in any of the cases reviewed. No Internal Affairs investigation was conducted, nor was one ever asked for or considered. This year, on the other hand, Internal Affairs investigations figured in three of the 10 cases.

In one instance, a good investigation was conducted concerning multiple post-shooting policy violations that were identified by the thorough investigation of the shooting conducted by Homicide.

In a second case, by contrast, a suspect, who had fired shots at the police, complained that unnecessary force was used against him by a number of officers over a 10-minute period after he surrendered and was handcuffed. Internal Affairs declined to conduct an investigation, in a manner that suggested that it had prejudged the matter by crediting the officers' accounts before gathering any facts. The suspect's allegations, if true, did in fact make out violations of the then-existing policies on use of force and should have been investigated.

In the third case an Internal Affairs investigation was conducted concerning the appropriateness of shots fired by a PPB member, but it did not consider other aspects of the incident that were worthy of investigation, particularly the merits of the plan. Internal Affairs allowed the Portland Police Association to play an active role—in some respects

⁶⁸ We note that there is no indication that the on-scene supervisors authorized the role switches.

usurping management's role—in seeking to prove the allegations, thereby undermining confidence in the result because some might perceive the process to have been unfair. We take no position on the appropriateness of the findings of the investigation. Our point is that even if the result were entirely appropriate, the fairness and objectivity of the process could be called into question.

The Internal Affairs summary report noted with respect to the union's active involvement in the investigation:

It was apparent that officers had influenced each other greatly. Similar phrases, descriptions and conclusions extended throughout their interviews. ... [The union representative playing the lead role in the investigation] informed us that he had all the officers read ... [the] After Action as preparation for the interview. This significantly impacted the investigation.

In addition, not considering other possible policy violations, combined with defects in the Homicide investigation that adversely affected the Internal Affairs investigation,⁶⁹ also served to raise questions about the fairness of the process.

⁶⁹ For instance, most of the witness officers were not interviewed by Homicide.

New Recommendations

Recommendation 2006.1: Policy 940.00(b) should be amended to require that the after action report in officer-involved shooting and in-custody death cases should be completed within 14 days of receipt by the unit commander of the files of the Homicide, Training, and Internal Affairs investigations of that case. Policy 335.00 should be amended to make explicit the relationship between the after action report and the unit commander's findings in Force Board cases. *(See page 14.)*

Recommendation 2006.2: Starting with the next appointments or reappointments, the PPB should make public the names of the citizens who are members of the Force and Performance board pools. *(See page 20.)*

Recommendation 2006.3: The PPB should provide a comprehensive orientation to the present and future peer members of the Force Board. *(See page 21.)*

Recommendation 2006.4: The PPB, with input from the PPA and the superior officers' association, should draft a fact sheet that sets forth the procedures of the Force Board that directly affect an involved member before, during, and after a Force Board presentation and should include that fact sheet with the invitation to the involved member to attend the proceeding. The PPB should adopt standardized language for requesting the member's statement before the Force Board and should advise involved members' of that language in the fact sheet. *(See page 23.)*

Recommendation 2006.5: PPB policy should require that Internal Affairs, as part of its administrative investigation of deadly force incidents, interview the involved officers, unless Homicide's investigation has covered all appropriate issues relating to policy, training, and tactics. *(See page 24.)*

Recommendation 2006.6: The PPB should notify Force Board members of the final outcomes of cases in which they participate. *(See page 26.)*

Recommendation 2006.7: The PPB should set individual stage and case-long benchmarks so that, barring good cause, Force Board hearings will be conducted within six months of the incident. *(See page 28.)*

Recommendation 2006.8: Barring medical necessity, involved members should be limited to being accompanied in their appearance before the Force Board to a union representative or an attorney. *(See page 28.)*

Recommendation 2006.9: The PPB should redraft Section 335.00 so as to remove the inconsistencies and lack of clarity in the present provision. *(See page 32.)*

Recommendation 2006.10: In addition to submitting full written findings to the Chief related to each determination it makes (and to each minority position, if any), the Force Board should document not only each determination it makes but also which members voted for or against that determination, or abstained. *(See page 37.)*

Recommendation 2006.11: The PPB should periodically conduct anonymous surveys of the peer and citizen Force Board panel members to evaluate the process. Particular emphasis should be placed on eliciting peer members' views on their ability and willingness to express candid opinions and to vote in accordance with their best judgment. *(See page 39.)*

Recommendation 2006.12: Files on cases going to the Force Board should be thoroughly indexed, particularly if the files are larger than average. *(See page 50.)*

Recommendation 2006.13: The PPB should further emphasize scenarios in academy and in-service training that help officers weigh the types of risks in dangerous situations, the availability and desirability of additional resources, and the types of exigent circumstances that would influence each tactical alternative. *(See pages 54.)*

Recommendation 2006.14: The PPB should foster a culture and provide options that encourage sergeants dealing with critical situations to seek advice when they believe it will be useful and should help develop user-friendly mechanisms for sergeants to promptly obtain advice when a supervising lieutenant is not readily available. *(See page 56.)*

Recommendation 2006.15: The PPB should study whether the benefits of using East County Major Crimes Team investigators on deadly force cases outweigh the liabilities of using those detectives. If the PPB decides to continue the relationship, it should develop improved accountability mechanisms and training for non-PPB personnel. *(See page 58.)*

Recommendation 2006.16: The PPB should enact a policy that provides that involved and witness members may not become TIC or Peer Support members in an incident where they were involved in the use of deadly force or were a witness. The PPB should ensure that EAP changes its rules and policies to forbid such conflicts. *(See page 59.)*

Appendix

Appendix Table of Contents

Portland Police Bureau (PPB)

Policy Section 335.00 (2005)	1
Policy Section 940.00 (2005)	11
Chief's Memorandum to Force Board Members (May 10, 2006)	14
East County Major Crimes Team MOU (2000)	15

POLICY AND PROCEDURE

- evidence available to prove or disprove the allegations, a critique of the complaint with the member should be conducted.
- g. Sustained: Member found to be in violation of policy or procedure.
 - h. Declined: The complaint is determined to be without merit, untimely, or obviously fallacious. Members are not interviewed regarding the allegation(s). Only the IAD manager or IPR director may decline a complaint.
 - i. Mediation: Complaint received mediation processing.
 - j. Service Complaint: Complaint is handled as a Service Complaint.
 - k. Debriefing: A debriefing of the incident, with the member, may be appropriate when it could:
 - 1. Improve future service delivery.
 - 2. Explore other options or alternatives open to the member during the incident.

RESPONSIBILITY, ACCOUNTABILITY AND CONTROL (330.00)

The IAD manager will ensure that the assignment, investigation, and documentation of complaints received are done in accordance with this directive. Each RU manager will ensure that complaints received by their RU are resolved in a timely manner.

335.00 PERFORMANCE REVIEW AND USE OF FORCE REVIEW BOARDS

- Index: Title
- Refer: ORS 131.005 Probable Cause, defined
- ORS 161.015 Deadly Physical Force and Serious Physical Injury, Defined
- ORS 161.219 Limitations on Use of Deadly Physical Force in Defense of a Person
- ORS 161.239 Use of Deadly Physical Force in Making an Arrest or in Preventing an Escape
- DIR 341.00 Discipline Process
- DIR 342.00 Personnel Performance Deficiencies and Non-Internal Affairs Rule Violations
- DIR 343.00 Criminal Investigations of Portland Police Employees
- DIR 344.00 Prohibited Discrimination
- DIR 1010.10 Deadly Physical Force, Use of, Including Reporting Requirements
- DIR 1010.20 Physical Force, Use of Applicable Bargaining Agreements

POLICY AND PROCEDURE

PROCEDURES (335.00)

Directive Specific Definitions

Action items: Recommendations for the review of policies, training, supervision, tactics, and equipment that were identified during the review board process.

Board member: A Bureau member or citizen serving on a Use of Force Review Board or a Performance Review Board.

Controverted finding: A determination that is overturned by the Chief of Police and/or Branch chief.

Due process meeting: A pre-disciplinary meeting with the Chief of Police and the involved member to discuss the members' proposed discipline.

In-policy finding: A determination by the Performance Review Board or Use of Force Review Board that the matter being reviewed was within Bureau policies.

Involved member: The primary member involved in the matter before the board.

Out-of-policy finding: A determination by the Performance Review Board or Use of Force Review Board that the matter being reviewed was not within Bureau policies.

Review file: A file containing copies of all of the reports and documents for a specific case.

Sustained finding: A determination that the member was found to be in violation of policy or procedure.

Witness member: A member who observes, or has firsthand knowledge of, the events surrounding the matter before the board.

The Performance Review and Use of Force Review Boards (335.00)

The Bureau review board process will fall under the Performance Review Board (PRB) and the Use of Force Review Board (UFRB). They will be convened as needed.

Selection Process for Board Members (335.00)

The Chief of Police will select volunteers to form a pool of community members to serve on either board. Citizen board members must pass a background check, participate in training to become familiar with Bureau training and policies and sign a confidentiality agreement. Training for Board members will include such topics as use of force, just cause, discipline policy and Bureau directives. Citizen members will be required to participate in ride-alongs to maintain sufficient knowledge of police patrol procedures. The Chief of Police will appoint members for a term of two years. The Chief of Police will also appoint Bureau members from each rank to serve as peer members for the boards. Peer members will be asked to serve a two-year term. All Board members will serve at the discretion of the Chief of Police. Peer member applications will be reviewed by the Services Branch chief and representatives of the Bureau's bargaining units. Their recommendations will be forwarded to the Chief of Police for final selection.

POLICY AND PROCEDURE

The Review Board Coordinator will select members from the pools to form each UFRB or PRB. Pool representatives from the involved member's RU will not serve on the UFRB or PRB.

For purposes of Board business, a quorum consists of six UFRB members who must be present for the Use of Force Board and five PRB members who must be present for the PRB. The UFRB or PRB shall invite involved Bureau member(s) to be present and to participate in providing a personal account of the incident details. If the involved member is unable to attend due to illness or emergency, the meeting may be rescheduled by the Services Branch chief.

Board Member Responsibilities (335.00)

All PRB and UFRB case files are confidential in nature. Therefore:

- a. Board members will not discuss or disclose any information or details about the cases presented to either a PRB or a UFRB without the authorization of the Services Branch chief.
- b. All PRB/UFRB case files, when not being presented to either Board, will remain in custody of the Review Board Coordinator.
- c. Case files may be reviewed by PRB and UFRB members when the Boards are not in session. The following procedures will be adhered to when doing so:
 1. The review must take place in the Review Board Coordinator/Chief of Police's office.
 2. No materials will be removed from the Review Board Coordinator/Chief of Police's office including case files or notes.

Performance Review Board Functions (335.00)

The PRB is to review all cases that involve:

- a. Investigations resulting in a sustained finding and the proposed discipline is suspension without pay or greater.
- b. A controverted finding.
- c. Independent Police Review returns for reconsideration.
- d. A request for review by the Chief of Police or a Branch chief.
- e. All completed Equal Employment Opportunity investigations.
- f. The PRB may make recommendations regarding the adequacy and completeness of the investigation, the findings of the investigation, the proper charges, and the level of discipline. The PRB may also suggest action items to address training or policy issues that have emerged from an investigation or various investigations. In cases where discipline is recommended, the PRB will recommend a level of discipline that is consistent with the applicable City and Bureau rules, including obligations under collective bargaining agreements.

POLICY AND PROCEDURE

Performance Review Board Composition (335.00)

A new PRB will be convened as needed. A PRB will be comprised of six voting members:

- a. Three Branch chiefs. The Services Branch chief will serve as the chair.
- b. One peer member.
 1. The peer member will hold the same or comparable rank/classification as the member being reviewed, and will be selected from a pre-approved pool of Bureau representatives.
- c. One citizen member.
 1. The citizen will be selected from a pre-approved pool of citizen volunteers.
- d. Member's RU manager.
- e. The Review Board Coordinator (non-voting member).
- f. A representative from the Bureau of Human Resources (non-voting member).
- g. A representative from the City Attorney's Office (non-voting member).

During the presentation of the case there may also be representatives from the following:

- a. Training Division.
- b. Investigative divisions (IAD, Detectives, Precinct).
- c. Independent Police Review.

Performance Review Board Procedures (335.00)

Discipline Process-Suspension or Greater

The Review Board Coordinator will convene a Performance Review Board when the recommendation for a sustained finding is a suspension or greater. See DIR 341.00 for procedures for Discipline Process-Less than Suspension. PRB members will have access to a copy of the investigative file and applicable directives prior to the PRB meeting.

RU Manager Responsibilities (335.00)

- a. During the PRB meeting, the RU manager of the involved member will:
 1. Present a summary of the facts of the case.
 2. Recommend findings as they relate to specific directives, rules or laws.
 3. If the PRB votes for a sustained finding, recommend the level of discipline.

Deliberations and voting (non-board members will be excused).

Board recommendations will be accomplished by a majority vote of the Board members based on their best judgment of the relevant facts and circumstances. Dissenting points of view will also be presented to the Chief of Police by the Board chair.

If an out of policy or sustained finding is recommended by the Board, specific provisions of Bureau policies, rules or laws that have been violated will be identified and appropriate discipline or corrective action will be recommended consistent

POLICY AND PROCEDURE

with Bureau and City rules, including obligations under collective bargaining agreements.

Affected Members' Responsibilities (335.00)

- a. After presentation of the case, the involved member may come before the Board and provide an account of his/her actions with regards to the incident and allegations. This may be in written or oral format. Afterwards, the Board may ask the member clarifying questions.
- b. Deliberations and voting (non-board members will be excused).
- c. The member will be informed of the Board's recommendation by the Board chair or designee at the conclusion of the board meeting.

Chief of Police's Responsibilities (335.00)

- a. Review and evaluate the recommended finding(s) and discipline.
- b. Determine the appropriate course of action and/or discipline.
- c. Return the case to the Review Board Coordinator for processing.
- d. In a case where suspension without pay, demotion or discharge is proposed, conduct or delegate the authority to conduct a due process meeting.
- e. Consider information presented by the employee in the due process meeting, make a final recommendation to the Commissioner-in-Charge and, once finalized, forward documentation of the imposed discipline and the investigative file to the Review Board Coordinator.

The Use of Force Review Board Functions (335.00)

- a. To review the following use of force incidents:
 1. All officer involved shootings.
 2. Serious injury caused by an officer that requires hospitalization.
 3. All in-custody deaths.
 4. Less lethal incidents where recommended finding is out of policy.
 5. Discretionary cases referred by the Chief of Police or Branch chief.
- b. To determine and recommend to the Chief of Police whether or not the level of force used by an officer was within Portland Police Bureau policies.
- c. The UFRB may make recommendations regarding the adequacy and completeness of the investigation, the findings of the investigation, the proper charges, and the level of discipline. The UFRB may also suggest action items to address training or policy issues that have emerged from an investigation or various investigations. In cases where discipline is recommended, the UFRB will recommend a level of discipline that is consistent with the applicable City and Bureau rules, including obligations under collective bargaining agreements.

POLICY AND PROCEDURE

Use of Force Review Board Composition (335.00)

A new UFRB will be convened as needed. A UFRB will be comprised of nine voting members and three advisory members:

- a. Three Branch chiefs. The Services Branch chief serves as the chair.
- b. One RU manager (non-involved RU).
- c. Two peer members.
 1. These peer members will hold the same rank/classification as the member being reviewed, and they will be selected from a pre-approved pool of Bureau representatives.
- d. Two citizen members.
 1. These citizens will be selected from a pre-approved pool of citizen volunteers.
- e. Member's RU manager.
- f. The Review Board Coordinator (non-voting member).
- g. A representative from the Bureau of Human Resources (non-voting member).
- h. A representative from the City Attorney's Office (non-voting member).

During the presentation of the case there may also be representatives from the following:

- a. Training Division.
- b. Division with investigative functions (IAD, Detectives, Precinct).
- c. Independent Police Review.

Use of Force Review Board Procedures (335.00)

- a. Internal Affairs Division (IAD) review:
 1. Following the Detective Division (Detectives) investigation of an officer-involved use of deadly physical force and any grand jury hearing or public inquest, the IAD manager, in coordination with the Training Division (Training), will review the officer-involved shooting, and conduct an administrative investigation to determine if the member's actions were within Bureau policy and procedures. IAD may be asked, at the direction of the Chief of Police's Office, to review other serious incidents with respect to the use of force (i.e., in-custody deaths, injury by an officer requiring hospitalization or less lethal incidents).
 2. IAD will provide a complete investigation file, containing the Detectives investigation, IAD investigation and the written training analysis to the involved member's RU manager for case review and preparation of the After Action Report.

Use of force incidents that fit the criteria for the UFRB will be investigated by IAD. IAD will have 10 weeks (70 days) to complete the investigation. The 10 weeks start on the day after IAD receives the case file from Detectives. When the investi-

POLICY AND PROCEDURE

gation is complete, IAD will initiate the review process by sending the case file to the suspect member's RU manager for review.

RU Manager Responsibilities (or his/her designee) (335.00)

- a. Review all UFRB case files sent to him/her.
 1. The review of each case file must be completed in 14 days or less. The 14 day review period starts on the day after the case file is received at the RU.
- b. Make a finding in the case.
- c. If the finding is sustained, make a recommendation for discipline and/or corrective action.
- d. Forward the case file to the Branch chief.
- e. Review any case files that are returned to him/her for further investigation by the Branch chief. Complete the enhanced investigation and return the file to the Branch chief.

Branch Chief Responsibilities (or his/her designee) (335.00)

- a. Review all UFRB case files sent to him/her within seven days.
- b. If the Branch chief concurs with the recommended finding and discipline, then he/she will determine what Discipline Process is to be used (Less than Suspension or Suspension or Greater).
 1. If Discipline Process-Less than Suspension is used, he/she will:
 - a) Document that Process-Less than Suspension will be used, and return the case file to the appropriate RU manager to implement discipline.
 2. If Discipline Process-Suspension or Greater is to be used he/she will:
 - a) Document that Process-Suspension or Greater will be used, and include that documentation in the case file.
 - b) Send the case file on to IAD.

IAD Manager Responsibilities (335.00)

- a. Ensure that each UFRB case file sent to IAD is logged in upon receipt.
- b. Ensure that when investigation and review are complete, two copies of the file are made and sent to the Review Board Coordinator.
- c. File the original copies of all case files normally.
- d. Forward both photocopied sets to the Review Board Coordinator.

Review Board Coordinator Responsibilities (335.00)

- a. Upon receipt of the Process-Suspension or Greater case files do the following:
 1. Send one case file to the suspect member's bargaining unit.
- b. Within 21 days schedule a time for the Performance Review Board to convene.

POLICY AND PROCEDURE

1. The UFRB must be convened as soon as it is reasonably possible to do so.

The Bargaining Units' Responsibilities (335.00)

- a. Review the case file with the member(s) and legal representation deemed necessary.
 1. The review of the case file must be completed in 14 days or less (two weeks). The 14 day review period starts on the day after the case file is received at the bargaining unit.

Training Division review:

- a. Before a Use of Force Review Board meets to review any officer involved shooting or an in-custody death, the Training manager or his/her designee will prepare a written analysis of the incident to be included in the case file. This analysis will focus on the following items:
 1. Tactics, policies, equipment and level of force used.
 2. Training provided to the member.
- b. Forward a copy of their written analysis to IAD for inclusion in the case file.

After Detectives, IAD and the Training Division have completed the investigation the following steps will be taken:

- a. IAD will prepare a review file for each case eligible to go before the Use of Force Review Board. The Review file will contain the following items:
 1. Copies of all of the reports and documents written and/or prepared for the case by Detectives.
 2. Copies of all the reports and documents written and/or prepared for the case by IAD.
 3. Copies of all the reports and documents written and/or prepared for the case by Training.
- b. The member and a representative from his/her bargaining unit will have 14 days to review the file in IAD.
- c. The IAD manager will review any discrepancies alleged by the involved member and will determine if further investigation is warranted before forwarding the case to the RU manager for findings.

Branch chief review:

- a. After receiving a completed copy of the investigation file the RU manager will have 21 days to complete their finding and forward the file to his/her Branch chief.
- b. The Branch chief will have seven days to review the findings and forward the case to IAD.
- c. IAD will review the recommendation, close the case and forward to the Review Board Coordinator.

POLICY AND PROCEDURE

- d. After receiving the case the Review Board Coordinator will have 21 days to schedule the convening of a Use of Force Review Board.

Review Board Coordinator (335.00)

The Review Board Coordinator is a non-sworn position assigned to the Chief of Police's office. The Review Board Coordinator oversees the implementation and functioning of a UFRB and a PRB.

In cases where discipline is recommended, the Review Board Coordinator will, within three weeks, prepare a letter of proposed discipline that reflects the Review Board's recommended findings and discipline, to be sent to the Chief of Police for review and signature.

- a. The Review Board Coordinator Responsibilities for a PRB:
 - 1. Maintenance of the Police Bureau's Discipline File. To assist in preparing for possible discipline, the Review Board Coordinator will:
 - a) Obtain member's previous discipline record.
 - b) Review the history of discipline meted out in similar circumstances, if any.
 - c) Coordinate with the RU manager in the preparation of proposed Letter of Reprimand.
 - d) Assist in the administration of the Performance Review Board review process.
 - e) Schedule pre-disciplinary meetings for the Chief of Police.
 - f) Advise and assist in ensuring that all proper procedures are adhered to in administering discipline, including the pre-disciplinary meetings.
 - g) Coordinate with the Deputy City Attorney and the Employee Relations Office of the City's Bureau of Human Resources.
 - h) Assist in the preparation of appropriate documents for discipline.
 - i) Ensure that copies of the final disciplinary letter are forwarded to the Bureau of Human Resources for inclusion in the member's City Official Personnel File.
 - 2. In cases where discipline is recommended, the Review Board Coordinator will, within 21 days, prepare a letter of proposed discipline that reflects the PRB's recommended findings and discipline, to be sent to the Chief of Police for review and signature.
- b. The Review Board Coordinator responsibilities for a UFRB:
 - 1. Schedule UFRB meetings.
 - 2. Assist in the review process as required.
 - 3. Maintain a record of all recommendations and actions taken.
 - 4. Advise and assist in ensuring that all proper procedures are adhered to.
 - 5. Assist in the preparation of appropriate documents.

POLICY AND PROCEDURE

6. Assist in preparation of due process meeting as necessary.
 7. Ensure that action items are documented.
-

341.00 DISCIPLINE PROCESS

Index: Title

Refer: City Human Resources Administrative Rules

Portland City Code

ORS 161.015 Deadly Physical Force and Serious Physical Injury, Defined

ORS 161.239 Use of Deadly Physical Force in Making an Arrest or in Preventing an Escape

DIR 330.00 Internal Affairs, Complaint Investigation Process

DIR 335.00 Review Boards

DIR 342.00 Personnel Performance Deficiencies and Non-Internal Affairs Rule Violations

DIR 343.00 Criminal Investigations of Portland Police Employees

DIR 344.00 Prohibited Discrimination

DIR 345.00 Early Warning System

DIR 1010.20 Physical Force, Use of Applicable Bargaining Agreements

POLICY (341.00)

Police Bureau members are subject to disciplinary action for cause or just cause. Possible disciplinary actions are identified in Human Resources Administrative Rule 5.1, or the applicable collective bargaining agreement. Generally, discipline is progressive, beginning with an oral or written warning and proceeding to suspension, demotion or discharge. Counseling, instruction and training are not considered disciplinary action and may be used to correct minor, non-repetitive violations of rules and regulations.

Serious offenses include, but are not limited to, criminal or other unlawful acts, abuse of authority, theft, untruthfulness, excessive force, failure to follow orders, unlawful discrimination, workplace harassment, retaliation, hostile work environment, or workplace violence and may justify suspension or discharge without the necessity of prior warnings or attempts at corrective discipline.

In all cases, the level and degree of discipline shall be in keeping with the seriousness of the offense, taking into account the circumstances relevant to the case. For less serious infractions, which warrant progressive discipline, the ultimate goal is to put the member on notice that certain conduct is unacceptable and to provide the member with a reasonable opportunity to modify his or her behavior.

It is not the purpose of this directive to require some automatic progression of disciplinary measures. Rather, the circumstances of each situation are considered on a case by case basis.

PORTLAND POLICE BUREAU, POLICY SECTION 940.00 (2005)

POLICY AND PROCEDURE

940.00 AFTER ACTION REPORTS AND OPERATION ORDERS

Index: Title

Refer: ORS 161.015 General Definitions

DIR 640.54 Prisoner/Suspect Damage to city Property

DIR 1010.10 Deadly Physical Force, Use of, Including Reporting Requirements

DIR 1010.20 Physical Force, Use of
After Action Form (CHO)

Operation Order Form (CHO)

PROCEDURES (940.00)

Directive Specific Definitions

After Action Report: A narrative report that describes a police action and assesses its effectiveness through critique and evaluation using required criteria.

Operation Order: A written plan to deal with specific police activity.

Serious physical injury (from ORS 161.015): Any physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

After Action Report (940.00)

- a. An After Action report shall be written for the following events/incidents:
 1. Vehicle pursuits.
 2. When a Use of Force Report is submitted that includes but is not limited to any of the following:
 - a) Less lethal.
 - b) Firearm discharge.
 - c) Taser deployment.
 - d) Police Canine (K9) Bites.
 3. Special Emergency Reaction Team (SERT) deployment.
 - a) The on-scene SERT supervisor will complete an after action report on SERT's participation in the incident.
 - b) The on-scene supervisor will complete an after action report on the circumstances leading up to and after the SERT activation.
 4. Hostage Negotiation Team (HNT) deployment.
 5. Explosives Disposal Unit (EDU) call out.
 - a) The EDU supervisor will complete all necessary EDU after action reports.
 - b) The on-scene uniform supervisor will complete an after action report on EDU call outs only when deemed appropriate by the EDU supervisor or his/her RU commander.
 6. Officer injury.

-437-

POLICY AND PROCEDURE

7. Injury to suspect in custody.
 8. Police vehicle collision.
 9. Damage to or loss of city property.
 10. Property Evidence Division (PED) firearm and narcotics destruction.
 11. Any incident or event for which an Operation Order was written.
 12. Any operation or mission using overtime, or significant on-duty (straight-time) resources.
 13. Any other incident or event, as directed.
- b. After action reports will be completed within seven working days of the incident generating it. Exceptions must be approved by the appropriate Branch chief.
- c. An After Action Report will be written in memo form and addressed (through channels) to the appropriate Branch chief. The Branch chief will forward copies to the Training Division (Training) and IAD, when appropriate. An After Action Report shall be submitted in the standard Bureau format. A copy of this format will be downloaded from the Intranet, and completed as is. The format shall not be changed or altered without permission of the Chief of Police. The report format is:
1. Summary:
 - a) The summary will be a short one or two paragraph narrative that describes the significant facts of the event.
 2. Personnel Costs (if applicable):
 - a) This will detail the costs of the incident by each employee category or rank, per current bargaining contract, and any other costs incurred that can be reasonably obtained during the seven day period. These costs will be calculated using the following formula: The number of individuals participating per rank or category multiplied by the hourly wage for that rank or category multiplied by the total hours. The lines shall be arranged in columns for easy reading. Straight time and overtime will be kept separate, but totaled at the end. The highest rate at each rank may be used.
 3. Critique and Recommendations:
 - a) The critique and recommendations will contain a thorough analysis of the incident. It will address any applicable directives and whether they were complied with or not complied with, and any recommendations or actions taken to address issues raised in this area of the After Action Report.
 4. Appendix:
 - a) The appendix will contain a compiled list of any attachments or documents that are included with the After Action Report. This will enable any subsequent reader to determine if all of the supporting documentation is present.

POLICY AND PROCEDURE

Operation Orders (940.00)

- a. An Operation Order will be completed any time significant police resources are redirected from routine activities. At a minimum, an Operation Order shall be issued for the following activities:
 1. Major public events such as parades, Rose Festival events, marches, protests, or any time permitted street closures require a significant police presence.
 2. Missions that involve overtime expenditures requiring approval from a Branch chief.
 3. As directed by a superior officer.
- b. Order Format:
 1. An Operation Order will be written in memo form and addressed through channels to the appropriate Branch chief. Operation Orders shall be submitted in the standard Bureau format. A copy of this format will be downloaded from the Intranet, and completed as is. The format shall not be changed or altered without permission of the Chief of Police.
- c. Recurring events.
 1. After Action Reports for recurring events should be examined prior to creating any new Operation Order to aid in the identification of best practices, lessons learned, and to address any needed issues.

950.00 CONFIDENTIAL CASE STATUS - DESTRUCTION OF SENSITIVE PAPER

Index: Title

Refer: Confidential Case Status Form (Records)

PROCEDURE (950.00)

Directive Specific Definitions

Confidential reports: Are those police reports requiring a higher level of security in handling than normal. A report may be classified as confidential if:

- a. It contains information of a personal nature, similar to that kept in personnel, medical or similar files, disclosure of which would constitute an unreasonable invasion of privacy.
- b. It contains investigatory information compiled for criminal law purposes, and a need clearly exists to delay disclosure in the course of the investigation due to the sensitivity of the subject matter.
- c. It contains material intended as an inter-bureau communication or as communication between the Bureau and another public body, to the extent the report contains other than purely factual materials and is preliminary to final determination of policy and action.
- d. It contains or refers to information submitted to the Bureau in confidence,

PORTLAND POLICE BUREAU, CHIEF'S MEMORANDUM TO FORCE BOARD MEMBERS
(MAY 10, 2006)



CITY OF PORTLAND, OREGON



Bureau of Police

Tom Potter, Mayor

Rosanne M. Sizer, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

MEMORANDUM

May 10, 2006

TO: Panel Members for the Use of Deadly Force and Performance Review Boards

SUBJECT: Expectations

I want to thank you for your service on the Portland Police Bureau's Use of Deadly Force and Performance Review Boards. Whether you are a Police Bureau member or a community member, your time is valuable and I appreciate the commitment and effort it takes to participate on these panels.

I also wanted to take an opportunity to outline my expectations of board members. I believe that the purpose of the Use of Deadly Force and Performance Review Boards are to foster honest discussions with varying viewpoints. You were chosen to be a part of these panels because you bring a unique perspective to the table. By themselves, each opinion remains a single element. But together, all the viewpoints become a well-rounded and thoughtful discussion and lead to the best recommendations.

I want to ensure that the original intent of the Use of Deadly Force and Performance Review Boards is carefully nurtured, because it is so vital to the success of this effort. Thoughtful words and diverse opinions will never be disrespected; and an atmosphere that does not support this honest dialogue will not be tolerated.

Again, please accept my appreciation for your work on the Use of Deadly Force and Performance Review Boards. Please know that you have my continued support. If you have any suggestions or ways you think we might improve this process, please don't hesitate to discuss your ideas with me directly.

ROSANNE M. SIZER
Chief of Police

Community Policing: Making the Difference Together
An Equal Opportunity Employer

Police Information Line: 503-823-4636, TTY (for hearing and speech impaired): 503-823-4736 Website: <http://www.portlandpolicebureau.com>

**Memorandum of Understanding
between the
Portland Police Bureau and East County Major Crimes
Team
in the
Investigation of Officer Involved Use of Deadly
Physical Force**

We the undersigned believe that anytime a police officer in any of our jurisdictions uses deadly physical force that results in injury or death, the public and our professionalism demand a thorough, complete and fair investigation. We have always strived to obtain these goals and believe the standards we have set have resulted in the very best investigations possible. We believe that to continue the high standards we have set, it would be helpful to integrate the various police agencies in the county in order to insure the continued high quality of investigation throughout the county, to provide training and experience to all agencies, to insure consistency, and to provide sufficient resources to guarantee that even the most complex situations are investigated in a comprehensive and timely manner.

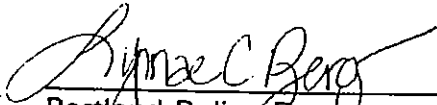
It is agreed by the undersigned agencies that whenever a police officer within Multnomah County uses deadly physical force resulting in physical injury or death the following will occur:

1. If the use of deadly force was used within the City of Portland, the East County Major Crime Team will provide 2 investigators to the Portland Police Bureau to assist in the investigation. Those 2 investigators will be under the direction and control of the lead investigator from the Portland Police Bureau.
2. If the use of deadly force was used outside the City, but within Multnomah County, the Portland Police Bureau will provide 2 detective-sergeants to the East County Major Crime Team to assist in the investigation. Those 2 detective-sergeants will be under the direction of control of the lead investigator for the East County Major Crime Team.
3. Both the Portland Police Bureau and the East County Major Crime Team will provide up to date phone information of persons to be notified about such use of deadly force.


4. Both the Portland Police Bureau and the East County Major Crime Team agree to notify the other immediately after acquiring knowledge of such use of deadly force.
5. Both the Portland Police Bureau and the East County Major Crime Team agree that upon notice they will dispatch the investigators immediately.
6. Both the Portland Police Bureau and the East County Major Crime Team agree that the investigators dispatched will be used in a substantive manner during the investigation. It is not the intent of either agency to use these investigators in only a token manner.
7. If the use of deadly force is by a Portland Police Bureau member outside the City of Portland, but within Multnomah County, the two lead investigators shall be from the East County Major Crime Team. The Portland Police Bureau will provide 2 detective-sergeants to the East County Major Crime Team to assist in the investigation. Those 2 detective-sergeants will be under the direction of control of the lead investigator for the East County Major Crime Team.
8. If the use of deadly force is by a member of any jurisdiction outside the City of Portland within Multnomah County, and it occurs inside the City of Portland, the two lead investigators shall be from the Portland Police Bureau. The East County Major Crime Team will provide 2 investigators to the Portland Police Bureau to assist in the investigation. Those 2 investigators will be under the direction and control of the lead investigator from the Portland Police Bureau.
9. If a police officer from another jurisdiction outside this agreement uses deadly force within Multnomah County, the jurisdiction where the use of force was used will conduct the investigation. This agreement will be still be applicable. If the agency of the officer who used deadly force wishes, it may provide 2 investigators to aid in the investigation.
10. If the use of deadly physical force is within the City of Portland notification of the District Attorney's Office shall be made pursuant to the Portland Police Bureau's Detective Division procedures. If the use of deadly physical force is outside the City of Portland within Multnomah County the notification of the District Attorney's Office shall be pursuant to the East County Major Crime Teams procedures.
11. To call out members of the East County Major Crimes Team, the first notification shall be to the Multnomah County Sheriffs Office or Gresham Police Department Detective Supervisor. The supervisor will designate the team members to respond, and make the notification.
12. All costs incurred during the investigation will be borne by each investigators agency.

AGENCY SUPERVISOR/ ADMINISTRATOR

I have reviewed this document and am in agreement with its contents. My signature below initiates my agency's support and participation in this endeavor as outlined in this document.



Portland Police Bureau



Oregon State Police



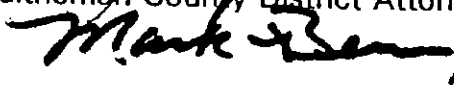
Multnomah County Sheriff's Department



Gresham Police Department



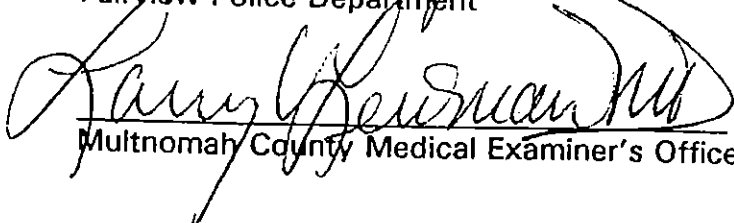
Multnomah County District Attorney's Office



Troutdale Police Department



Fairview Police Department



Multnomah County Medical Examiner's Office

**Responses of the Mayor
And the Portland Police Bureau**



Office of Mayor Tom Potter
City of Portland

December 28, 2006

City of Portland
Auditor's Office
1221 SW 4th Avenue
Portland, Oregon 97204

Dear Auditor Blackmer:

I am pleased with the progress of the Portland Police Bureau's work on implementing the recommendations of the Police Assessment Resource Center (PARC) Report. Chief Derrick Foxworth initiated the implementation of most of the 89 original recommendations and Chief Sizer has continued with those that followed. I have seen a true commitment to improving accountability, transparency, and service and agree with the PARC auditors' language that the Portland Police Bureau "has demonstrated increasing professionalism as it moves toward full implementation of recommendations made in earlier reports."

I would like to thank the PARC for its thorough, objective work and look forward to continuing the implementation process with the Portland Police Bureau.

Sincerely,

Tom Potter
Mayor



CITY OF PORTLAND, OREGON



Bureau of Police

Tom Potter, Mayor

Rosanne M. Sizer, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

Integrity • Compassion • Accountability • Respect • Excellence • Service

MEMORANDUM

December 20, 2006

TO: Ms. Leslie Stevens, Director
Independent Police Review
B 131 City Hall

SUBJECT: Portland Police Bureau Response to Police Assessment Research Center Report

I am pleased to provide you with our response to the recommendations set forth in the Police Assessment Research Center's (PARC) December 2006 report. I am also pleased by both the constructive nature of the recommendations and the acknowledgement by PARC of the progress the Portland Police Bureau has made in the investigation and review of officer-involved shootings and in-custody deaths.

The 2006 PARC report takes stock of the progress the Police Bureau has made in implementing recommendations from PARC in 2003. The focus of this report was the internal review of officer-involved shooting cases and in-custody deaths and records retention. Additionally, PARC has made over a dozen recommendations that further refine the review and records retention processes. The Portland Police Bureau is committed to a thorough and thoughtful review of these incidents and accepts most of PARC's recommendations without reservation.

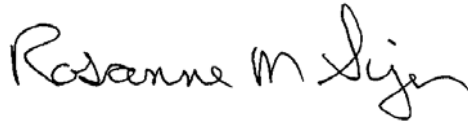
Two of PARC's 2006 recommendations require special comment:

1. The Portland Police Bureau agrees with PARC's assessment that officer-involved shooting cases are taking too long to reach the Use of Force Board for review. We are developing mechanisms to better coordinate the work in order to improve timeliness. We are, however, doubtful that we can reach the six month benchmark identified by PARC given the investigators are also responsible for investigating homicides and internal affairs cases.
2. The Portland Police Bureau is committed to our partnership with the East County Major Crimes Team. We would like to thank East County Major Crimes Team members for the assistance they have rendered the Portland Police Bureau and the Portland community over ten years. We will work with the East County Major Crime Team to identify and remedy any gaps in training or orientation in our protocol that may have been an impediment to their investigative efforts.

Community Policing: Making the Difference Together
An Equal Opportunity Employer

The 2006 PARC report reviewed 10 officer-involved shooting cases. All but one of these cases occurred prior to PARC's initial review and recommendations. We look forward to PARC's review of more recent officer-involved shooting and in-custody death cases, which were investigated and reviewed under the new standards.

Finally, the Portland Police Bureau is committed to using information from officer-involved shooting and in-custody death cases to continuously improve our policies, training, and equipment. We are taking steps—including the review of the 1992 Nathan Thomas officer-involved shooting case in this year's in-service training—to ensure that the lessons are disseminated throughout the organization. We welcome the collaboration with the Independent Police Review and PARC in this important learning process.

A handwritten signature in black ink that reads "Rosanne M. Sizer". The signature is written in a cursive, flowing style.

ROSANNE M. SIZER
Chief of Police

