



CITY OF
PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR

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MEMORANDUM

Date: November 14, 2008

To: City Council Members

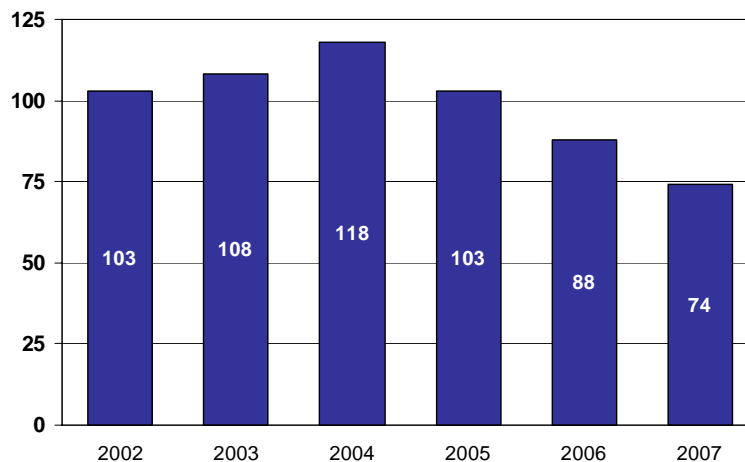
From: Mary-Beth Baptista, Director and Derek Reinke, Senior Management Analyst

Subject: Response to questions raised during Council presentation of the 2007 Annual Report

You invited us to respond to questions raised by members of the League of Women Voters and Portland Copwatch during the presentation of our 2007 Annual Report to City Council last month.

Independent Police Review (IPR) pointed out that there has been a 37% decline in the number of force complaints since 2004, a drop far greater than the 15.5% decline in total complaints during the same time period. The chart below is a count of all complaints that contain one or more allegations of excessive force (Figure 3.2 from page 29 of the Annual Report). We are highlighting the drop from 118 force complaints in 2004 to 74 in 2007.

Force Complaints 2002-2007



However, a detailed inspection of Table 2.4 on page 9 of the Annual Report (provided below) shows no reduction in force allegations *as a percent of all allegations*. The question was, if the number of force complaints is declining faster than all complaints received, why was there no change in force as a percent of all allegations?

Citizen-Initiated Complaint Allegations Reported by Category												
Allegation Category	2002		2003		2004		2005		2006		2007	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Conduct	467	39%	1409	50%	1430	53%	956	40%	731	38%	694	39%
Control Technique	43	4%	112	4%	112	4%	92	4%	84	4%	101	6%
Courtesy	199	17%	409	14%	394	15%	447	19%	372	20%	316	18%
Disparate Treatment	59	5%	131	5%	123	5%	108	5%	75	4%	104	6%
Force	169	14%	211	7%	225	8%	185	8%	161	8%	148	8%
Procedure	260	22%	555	20%	420	16%	584	25%	476	25%	400	23%
Total Allegations	1,197		2,827		2,704		2,372		1,899		1,763	
Complaints Received	513		761		781		771		721		660	

The answer is that complaints can contain multiple allegations and the table of allegations on page 9 cannot be directly compared to the number of complaints received by IPR. Much like the force complaint count, the overall count of allegations has also dropped at a faster rate than the overall complaint count. There were 35% fewer total allegations in 2007 than in 2004, compared to a 15.5% reduction in complaints. Because the total number of allegations has declined at roughly the same rate as the number of force allegations, the percentage of force allegations appears steady at 8%.

A logical follow-up question is why has the total allegation count dropped so sharply? IPR complaints averaged approximately 3.5 allegations each in 2003 and 2004. In 2006 and 2007, that same count is roughly 2.6. We believe that part of this decline in allegations-per-complaint is due to changing officer behavior and part is due to the way we are counting and framing allegations. On our part, we have seen that findings and disciplinary decisions are made on the degree of misconduct and not *multiple counts* within a category or complaint. We carefully identify the full set of facts relevant to the complaint, but several acts of discourtesy are more likely to be collected together into a single allegation of discourtesy. An incident that contains several acts of discourtesy will still increase the severity of discipline, regardless of how detailed IPR is in framing and counting each action.

We believe this general approach (emphasized since mid-2005) increases the likelihood that an officer's performance will be appropriately judged because we found that evaluating the entirety of the incident was a better means of identifying misconduct than parsing individual actions into specific allegations and judging them in isolation. Also since 2005, a number of the detailed, specific allegation labels have been modified, consolidated, or separated out for various reasons.

Excessive force has been an exception to this approach. For example, because of the public interest and policy considerations involved, we are still likely to detail each type of force alleged. That is one of several reasons we are confident the reduction in force complaints is a valid observation. We are quite interested to see what factors are driving the decrease, if the trend will hold over time, and if the actual use of force reported by the Portland Police Bureau (PPB or the Bureau) is down as well. We are reconvening the Use of Force Task Force this month to further investigate these issues. The Task Force will include IPR, PPB, and Citizen Review Committee (CRC) representatives.

Besides the force allegation issue, the presenters mentioned a few additional concerns we'd like to address.

- **Expand the Right to Appeal to Additional Complainants**
 The League of Women Voters presenter mentioned the increasing number of *service complaints* and wondered about the right to appeal or ask for reconsideration. IPR and the CRC noted this trend some time ago and formed a workgroup to address the issue. The workgroup is currently reviewing a sample of service complaints, IPR *dismissals*, and Internal Affairs Division (IAD) *declines* - with a particular focus on cases where the complainant voiced disagreement with our case-handling decision. The workgroup will evaluate the suggestion that some type of appeal rights be extended to this subset of complainants.
- **Similarities in Officer-involved Shooting Incidents of 2005 and 2007**
 Regardless of the significant drop in officer-involved shooting incidents, the Bureau and IPR continue to inspect each case with a critical eye. IPR noticed the same similarity between one of the 2007 shootings and a 2005 case that Portland Copwatch notes. While we didn't specifically highlight the case in our Annual Report, IPR did draw the connection. As part of our normal review of IAD investigations, our Assistant Director requested that IAD ask particular questions that would evaluate the similarity to the 2005 shooting. These similarities became part of the investigation case file reviewed by the Bureau's management team.
- **Bias-based Policing/Racial Profiling Concerns**
 IPR has shown interest in the area of racial differences in police contacts and complaints. We continue to support and staff a CRC workgroup on Bias-based Policing and we've supported CRC's role in the Mayor's Racial Profiling committee (including our Assistant Director's co-presentation at a meeting last spring). With our staffing levels up, we hope to play a larger role in the Human Rights Commission's emerging successor committee(s).
- **Professor Luna-Firebaugh's Review of IPR**
 We have made a number of changes in response to the Luna-Firebaugh review, including presenting the 2007 Annual Report to you (Council) with the opportunity for public testimony. The size of CRC (mentioned by the League) is among the remaining recommendations that an additional CRC workgroup is helping us evaluate and prioritize.
- **Concerns that IPR or IAD has Redefined Use of Force**
 Portland Copwatch wondered if IPR re-labeled the use of pepper spray as a control technique (instead of force) in recent years. IPR takes the complaint category descriptors directly from the Bureau's Manual of Policy and Procedures. Aerosol restraints have been listed in the Bureau's definition of control holds since 2002 (Directive 330.00). As the same directive states to count any use of a control hold, physical force, or impact weapon that borders on injury as a force complaint - IPR has counted the use of pepper spray as a use of force 86% of the time. The counting has been consistent since 2002, and has not played a significant role in the decrease of use of force cases.

In closing, IPR has a great deal of positive momentum right now. We believe the Annual Report data shows we have been progressively effective. More of the complaints coming through our doors are fully investigated and an increasing number of officers are facing sustained findings and discipline. At the same time, we are pro-actively addressing our shortcomings. IPR is currently working with an outreach and communication consulting firm on an overhaul of our approach to these key areas. Also, we are producing our Quarterly and Annual Reports within tighter timelines. IPR continues to be open to CRC audits of our case handling and decision making, and places a high value on CRC members' and the public's input on restructuring proposals. We appreciate, as well, the concerns presented during the public testimony. We will collaborate with those individuals to form solutions going forward - as they represent key stakeholders with an interest in the IPR oversight system.

Finally, please know that we are available to you and your staff at any time.

cc: Gary Blackmer, City Auditor
Debbie Aiona, League of Women Voters
Dan Handelman, Portland Copwatch