

The Oregonian

City not getting data it needs to regulate taxi industry, auditors find

By Elliot Njus

October 12, 2016

Portland transportation officials aren't collecting enough data to effectively police the recently deregulated taxi industry, the city's independent auditor found.

In a report to be released Wednesday, which reviewed the Transportation Bureau's oversight of taxi companies as well as Uber and Lyft, auditors found that most of the city's traditional taxi companies have failed to report required data, such as wait times and ride cancellations, that can help measure the level of service they're providing.

Some companies, the audit found, may underreport the number of rides they provide, potentially dodging thousands of dollars in fees to pay for the regulatory program.

"The Transportation Bureau has focused on monitoring safety," said audit services Director Drummond Kahn, "but now it needs to increase its monitoring of service."

Portland last year removed much of its regulation of the taxi industry, including caps on the number of taxis and fixed prices, at the same time it legalized market newcomers Uber and Lyft.

Portland is among many cities trying to navigate a tectonic shift in its taxi industry. Uber and Lyft together seized 60 percent of the city's ride market within months of their arrival, in part taking market share from traditional taxis but mostly increasing the size of the market. Investors have valued the fast-growing, privately held companies at more than \$5 billion for Lyft and more than \$60 billion for Uber.

There are some safety issues uncovered in the audit.

For one, the city has collected only crash data from the companies in aggregate, without information that would allow the city to identify problem drivers.

And in its inspections of 600 Uber and Lyft driver, auditors found, 30 were found to be ineligible because of suspended driver's licenses or poor driving history. The audit recommended more targeted inspections based on risk rather than market share. (The Oregonian/OregonLive reported on enforcement data earlier this year and found Uber and Lyft drivers were more likely to run afoul of the city's rules.)

That issue has added relevance because the city has allowed companies to conduct background checks on prospective drivers rather than do its own.

"If the city is relying on businesses to do background checks, it's especially important that those happen correctly," Kahn said.

The primary focus of the audit, however, was that most taxi companies have failed to turn over data on ridership, wait times and wheelchair-accessible service. In approving Uber and Lyft and deregulating the taxi industry, the City Council hoped to improve service in the city and cited those measures in particular.

The ride data is a particular concern because riders pay a 50-cent surcharge, which is intended to fund the cost of inspections and other administration. Companies that underreport their

ridership may not be paying their share. The fees are expected to raise cover the cost of regulation, which was \$1.4 million in the last fiscal year.

In response to the audit, Transportation Bureau Director Leah Treat said the city's challenge in collecting data from taxi companies stemmed from the technology those companies are using. Uber and Lyft, technology-focused companies used to working with the vast quantities of information they collect, have turned over data much more reliably, the audit said.

"Many of the smaller taxicab companies don't have the technological ability to capture this data," Treat wrote, "and we are providing them technical assistance to help them comply."

The audit also reported on the state of the ride-for-hire market, which has changed dramatically since Uber and Lyft started operating in the city permanently in 2015.

Weekly taxi ride numbers have been fairly steady since then, and cabs were giving about 3,000 rides a day in April 2016. However, the number of taxis and drivers has increased since the City Council removed a cap on taxi licenses at the same time it legalized Uber and Lyft.

Uber and Lyft ridership has climbed dramatically in the same period. The number of rides they provide, however, was not disclosed under the terms of their non-disclosure agreement with the city. Both San Francisco-based companies consider such data to be a trade secret.

The Oregonian/OregonLive has sought those numbers under Oregon's public records law, and the Multnomah County district attorney ordered the city to turn the records over. However, a Multnomah County Circuit Court judge temporarily blocked the release at the request of Uber and Lyft, which are seeking a permanent injunction against the release of the information.

Portland police chief looks to hire more officers with new contract

*By Allan Brettman
October 11, 2016*

Portland Police Chief Mike Marshman issued a defense Tuesday of a proposed police contract a day before a scheduled City Council vote, stressing the need to hire more officers for the understaffed department.

Marshman's statement also talked about changes the police bureau is making in officer recruitment, training and community relations, partly because of greater scrutiny locally and nationwide of police.

But in an interview with The Oregonian/OregonLive, Marshman said a key reason he issued the statement in advance of the council vote was because of "misinformation out there" about whether a proposed body camera policy is included in the contract. It's not, Marshman said, something that is addressed in detail in a frequently-asked-questions document Mayor Charlie Hales office has posted about the proposed agreement.

The FAQ says a proposed body cameras policy was included in a contract package to council members "as reference material on a proposed policy."

Critics have attacked a provision in the proposed policy that would allow officers to view body camera footage before writing up any encounters with civilians except fatal ones. The fact that

the body camera policy was developed behind closed doors between the police union and city negotiators, and made public just this week, heightened concerns.

However, an opinion Mark Amberg, chief deputy city attorney, sent to Hales and City Councilors on Tuesday says Oregon Employment Relations Board may require the city to bargain with the police union over a body cameras policy – if the union were to challenge an adopted policy.

The board, if asked for an opinion, may "find that the review of audio/video by officers – whether under a body camera policy or otherwise - impacts mandatory subjects of bargaining and, therefore, is mandatory for bargaining," Amberg wrote in his opinion, noting the entire issue of body cameras is "fairly recent (with) little guidance supplied by other jurisdictions."

The contract as well as the body cameras issue brought activists from the group Don't Shoot Portland to Portland City Hall on Tuesday evening.

After marching down Southwest Fourth Avenue, they pitched tents in front of City Hall, where they planned to stay the night, lead organizer Teresa Raiford said.

Protesters feel they have been shut out of conversations about the contract, Raiford said. Last Wednesday, Portland Mayor Charlie Hales canceled a City Council meeting about the contract after protesters disrupted the meeting. It was rescheduled Thursday afternoon with limited public access.

Protesters and police watchdog groups have said they want the vote on the contract to be delayed until Mayor-elect Ted Wheeler takes office in 2017.

"I just want to change the process of it being fast-tracked," Raiford said. "I want the mayor to give sufficient time to engage with the community and all communities that want to be involved."

Raiford is also worried about the contract's handling of body cameras.

In the interview on Tuesday, Marshman said the main reason for issuing his statement was to emphasize the importance of hiring more officers, soon. "The staffing crisis was kind of getting lost in the weeds," he said in the interview.

Marshman's written statement said the bureau, which can have 948 sworn officers, is facing "a staffing crisis with 65 vacancies, and at least 21 more to come this month ... even more alarming is that 385 members are projected to retire over the next five years."

"This crisis has been further amplified by both a significant and steady increase in population and calls for service, and a complexity in calls that take longer for officers to resolve," Marshman wrote. "Finally, there is a shared expectation by the community and me that officers will spend more time building relationships and preventing crime."

City negotiators and the Portland Police Association reached a tentative contract agreement this summer. The proposed three-year contract would raise starting pay from \$49,837 to \$60,840 and deliver substantial pay raises to experienced officers.

In exchange for the raises, the association agreed to eliminate a controversial 48-hour waiting period before an officer can be interviewed by internal affairs investigators about use of deadly force. The union also agreed to drop 11 grievances against the city.

The financial incentives are needed to hire and retain qualified officers, Marshman said in the statement issued Tuesday, noting that only one of every 20 candidates is hired and that it takes 18 months before an officer is trained.

"The (contract) would also provide an incentive for officers currently working at other agencies to come to Portland," he said. "Lateral hires do not have to go through the state academy,

significantly reducing training time, which benefits both the lateral hire and the community. "I've been to more retirement parties than I can count. I watch our well-trained, knowledgeable officers, who have a strong connection to this community, walk out the door and immediately go to work for another police agency. We must accept this reality and retain those officers. The (contract) provides an incentive for retiring officers to continue their career in Portland." Marshman said the bureau is making changes in officer recruitment, training and community relations because "there is an important local and national conversation about police and community relations."

The changes, the chief wrote, include:

- Starting equity training for officers, beginning with a history lesson on race relations in Portland and institutional racism that has existed throughout our society. Training will be ongoing and will soon include training on implicit bias.
- Building a more diverse work force through recruitment and hiring processes.
- Making community engagement a priority, "whether it's a simple conversation or an event. A portion of this work is shared via social media, so the community can see what is occurring in our city."
- Continuing partnership with the Department of Justice "to fulfill and exceed the expectations in the Settlement Agreement."

"We continue to seek the balance of how to police in a community where social services have broken down," Marshman wrote, "and traditional enforcement strategies are no longer an effective tool in many cases."

Marshman's appeal comes one day ahead of a City Council vote lacking suspense. The contract is set to pass with support from Mayor Charlie Hales and Commissioners Nick Fish and Amanda Fritz. Commissioner Steve Novick is expected to vote "no," citing uncertainty about how the city will pay for higher salaries. Commissioner Dan Saltzman will be absent for Yom Kippur.

Willamette Week

What's Wrong With the New Police Union Contract?

By Rachel Monahan

October 12, 2016

Portland's proposed contract with the Portland Police Bureau's union has sparked public opposition at a level rarely seen at City Hall: rallies, a camp-out and even a lockout. Here's why activists are alarmed.

Why is Mayor Charlie Hales eager to pass this contract?

Hales appears to have the votes to make good on a campaign promise to end the 48-hour rule: the provision of the police contract that gives officers who kill someone two full days to consult with an attorney before an investigative interview. Hales also has offered police a sizable raise, at least in part because he wants to fill 65 vacancies at the Police Bureau.

Why are protesters opposing the contract?

The flash point is a draft policy on the use of police body cameras. Putting body cameras on police officers is supposed to offer a measure of oversight of their actions. Civilian footage has sparked nationwide calls for police reform.

Yet the draft policy wouldn't allow supervisors to randomly review the footage for oversight of police practices. "It ties the city's hands on using the body-camera footage to the best of our ability," says Constantin Severe, director of the Independent Police Review, the city's civilian review board.

But here's the bigger sticking point: The contract would allow officers to review footage from cameras in all but officer-involved shootings and death-in-custody cases before they write reports.

What's wrong with letting police see video?

Critics say the cameras, instead of providing oversight, would function only as a way to make officers' testimony more credible, effectively undermining other witnesses.

"It doesn't make a lot of sense," says Don't Shoot Portland spokesman Gregory McKelvey.

Portland would not be alone in allowing officers to review footage, depending on how the policy is written. Severe says 90 percent of the cities he's reviewed have a similar policy.

Isn't getting rid of the 48-hour rule a big enough victory?

Some activists think the 48-hour rule, long a target of police watchdogs, was doomed—and Hales gave away too much in return.

"It's kind of a Trojan horse," McKelvey says. "[Hales] gets no accountability on the part of the public."

Black Officers Are Scarce in the Portland Police Bureau

By Johanna Bernhard

October 12, 2016

As Portland Mayor Charlie Hales seeks ratification of a controversial new contract with the Portland Police Association, tensions between police and the policed are high here and across the country.

Police critics say part of the problem is the racial and cultural divide between cops and regular citizens. Here in the nation's whitest big city, and its even whiter suburbs, that's also an issue.

In the metro area's four largest law enforcement agencies, the numbers are mixed: In the Multnomah and Clackamas county sheriff's offices, the percentage of African-American officers is higher than the percentage of African-Americans in the counties they serve. Latino officers, however, are in short supply everywhere.

In Portland, Hales has an opportunity to address the makeup of the force—the bureau has 65 open positions, and he's pushing to raise pay to make filling those jobs easier.

The chart below shows the number of black and Hispanic officers in each agency and compares it to the percentage of those minorities in each county.

Murmurs: Portland Failing to Watchdog Uber, Lyft and Taxis

By WW Staff

October 12, 2016

The Portland Bureau of Transportation isn't living up to its commitment to monitor taxis and ride-hailing companies Uber and Lyft, according to an Oct. 12 city audit. That means, for example, that the city has no idea about comparative wait times, whether disabled passengers are getting needed service, or whether drivers are adequately responding to calls from underserved areas of Portland. But that's not the most interesting part of the audit. Owing to confidentiality agreements with Uber and Lyft, portions of the audit are redacted, putting the public in the dark even about how many rides the companies have given. (Uber and Lyft have cases pending in Multnomah County Circuit Court to keep that information secret.) City Commissioner Steve Novick—who oversees the transportation bureau—declined to comment.

The Portland Mercury

Hall Monitor: A Rudderless Harbor?

By Dirk VanderHart

October 12, 2016

THE GLINT of private money has always been Homer Williams and Co.'s biggest selling point for their Oregon Harbor of Hope project.

Williams, the prominent Portland developer who's been a chief figure in trying to convert the city-owned Terminal 1 property into an emergency shelter, says he can bring game-changing resources to a homelessness fight this city's losing.

This week, he's boasting about raising nearly \$300,000 to run a short-term shelter at the site's 96,000-square-foot warehouse. And Williams tells me he has roughly \$250,000 worth of pledged "pro bono" work for the temporary modifications the space will need if it hopes to be a workable shelter.

It's not enough cash to get the operation going, he says, but it's progress.

"Things are looking good," Williams said Tuesday. (He also cheerfully called me a "busy little boy" for some reason?)

But as a pair of leases for the proposal move toward completion—one between Williams' nonprofit and the Portland Housing Bureau (PHB), another between PHB and another bureau—a bigger question than money looms over Harbor of Hope: Is there anyone to run it?

People within City Hall say pledges of cash are well and good, but they don't matter much if there's not a capable organization to step in and oversee day-to-day operations at what would eventually be the city's largest shelter. There will need to be a more formal arrangement than the self-governance model used successfully by groups like Right 2 Dream Too, sources say.

As his people pore through a potential lease and eye the warehouse for renovation, Williams still can't name an operator. Last week, he predicted he'd have an announcement by Monday. As of Tuesday, his nonprofit was still in the interview stage.

Part of the issue, Williams hints, is that the Portland Housing Bureau expects him to operate his shelter with a low barrier to entry, meaning taking pretty much anyone who walks through the door.

"Which we thought was a little strange, since we're relatively new to the business," he says (the nonprofit has been around for mere months, and has never run a shelter). "Those are the people who take the most work."

Williams says he anticipates assistance from affordable housing provider Central City Concern in offering services at Terminal 1 (the organization hadn't confirmed this as of press time), and he's had avowed support from Bill Russell, executive director of Union Gospel Mission.

But while Union Gospel has experience opening shelter space during winter, outfits like Transition Projects and Human Solutions that operate year-round shelters haven't offered much public support for the project.

That's not necessarily problematic. Marc Jolin, head of Multnomah County's new Joint Office of Homeless Services, tells me Union Gospel, for instance, "could effectively manage" the site, given its history with the city homeless community and experience with winter shelters.

But, again, no such partnership has been announced. As Portland pushes toward a shelter model different than any we've seen, it's fair to wonder why.

MEMO: Police Union Isn't Automatically Entitled to a Say in Body Cam Policy

*By Dirk VanderHart
October 11, 2016*

As controversy has swirled over the particulars of a forthcoming police body camera policy in recent weeks, Mayor Charlie Hales has repeated one claim several times: Hales says the city's legal experts believe that the city's rank-and-file police union, the Portland Police Association (PPA), has an ironclad right to hash out the policy as part of its contract.

"The city attorney says it's a mandatory subject of bargaining," Hales told the Mercury last week.

That's a strong position for the union to be in—it ensures the PPA has leverage over the policy, and can file a grievance with the state if it has concerns about how body cameras are being implemented.

But it turns out that Hales' statement isn't entirely accurate.

In fact, in a legal memo [PDF] sent to members of Portland City Council today, Deputy City Attorney Mark Amberg writes that city attorneys "would argue that implementation of a body camera policy is a management prerogative that is permissive for bargaining..."

It's a way of saying Amberg doesn't believe the city's automatically required to hash out a body camera policy as part of the union contract. Amberg also writes in the memo it's not clear the

city has to bargain over when officers are able to review footage they record on body cameras, which has proven to be hugely controversial.

But the city's giving the PPA bargaining power over body cameras anyway.

A "tentative agreement" [PDF] between the city and the PPA—which is scheduled to come up for a vote tomorrow morning, along with a new contract—specifically states that "PPA retains all collective bargaining rights over the [body-worn camera] Policy, to include the right to file grievances and/or unfair labor practices."

The agreement also says the parties "specifically agree that the subject of review of audio/video... is mandatory for bargaining."

The reason for these concessions lies behind the rest of Amberg's memo. He writes that, though city attorneys don't think body cameras need to be bargained, they have no faith the state's Employment Relations Board (ERB) will side with that opinion if it's put to the test (and it would be).

"We think there is a significant risk the ERB would determine that at least parts of the design and implementation of a body camera policy have impacts on mandatory bargaining subjects and, therefore, would be mandatory for bargaining," Amberg's memo says. "We think there is also a significant risk the ERB would find that the that the review of audio/video by officers—whether under a body camera policy or otherwise—impacts mandatory subjects of bargaining and, therefore, is mandatory for bargaining."

The distinction between Hales' statement (that bargaining the body cam policy is absolutely mandatory) and Amberg's opinion (that the city has an argument bargaining isn't mandatory, but it would likely fail) is important for police accountability advocates who've raised concerns about the development of the policy.

Those concerns are especially centered around "Section 9" of a draft policy recently unveiled by the city. The section says officers are free to view footage from their body cameras before writing reports in most instances, a provision that's common to policies around the country, but which is frowned upon by a host of national organizations.

"We believe there are valid legal arguments that at least portions of Section 9 are permissive subjects of bargaining," Kimberly McCullough, legislative counsel for the ACLU of Oregon, wrote in an October 4 email to City Council. "This is important, because if the provisions of Section 9 of the body camera policy are mandatory for bargaining, they cannot be changed by the City without bargaining with the police union. If they are permissive, the City can change the policy without having to give the union anything in exchange."

She continued:

Here's the crux of why this is important: Maybe Mayor Hales and his administration do not wish to make the argument that Section 9 is a permissive subject of bargaining. But a new mayor, Ted Wheeler or one of his successors, may wish to alter Section 9 so that body cameras will better serve the community as an accountability tool. That new mayor may share our opinion that all or at least parts of Section 9 should be a permissive subject of bargaining, because it is primarily tied to the promotion of the health, safety, and welfare of the people of Portland. But that new mayor will be precluded from making such an argument by this agreement.

Dan Handelman, of Portland Copwatch, puts it another way.

"They gave away the store by putting it into the tentative agreement with the police association," Handelman said Tuesday evening. He said it was "pure speculation and a very poor way to drive public policy" to just assume the city would be unsuccessful before the ERB.

But the matter may be moot by lunchtime Wednesday. After several of the most contentious hearings in recent memory (see [here](#), [here](#), and [here](#)), City Council is finally scheduled to vote on the new contract tomorrow, as well as the tentative agreement that makes clear body cameras will be up for bargaining.

There appear to be enough votes on council to pass that agreement, but there's also almost no chance that hearing goes smoothly. As of Tuesday night, activists were camped out in front of City Hall in protest of the police agreement, and were promising to flood Wednesday's hearing as they have others ([#bridgecrane](#)).

Cash-Strapped PBOT Doesn't Want Your Free Crosswalks

By Dirk VanderHart

October 12, 2016

PARENTS WALKING their young children to Southeast Portland's New Day School have had a confusing month.

After years of crossing a barren Clinton Street, they showed up on the morning of September 12 to find a marked crosswalk where Southeast 19th dead ends into Clinton—the very spot where the preschool sits.

If they were observant, the parents noticed this wasn't like other crosswalks around town. Rather than the specialized plastic that the Portland Bureau of Transportation (PBOT) favors, the new markings were made of durable reflective tape.

"Very expensive," says one of the people who installed the crosswalk.

In today's Portland, where tactical urbanists have taken to erecting rogue speed signs and dropping unsanctioned cones to warn cars away from bike lanes, it won't surprise you to know he's not a city employee. PDX Transformation, a contingent of anonymous street safety advocates who have been active since late last year, installed the crosswalk.

Now, as the city mulls over a new plan designed to eliminate serious traffic injuries and deaths by 2025, the Clinton street intersection has become something of a battleground.

As quickly as the crosswalk appeared, it vanished. PBOT crews moved in late September to remove the reflective tape.

Hours later, PDX Transformation volunteers were back at the intersection, detouring vehicles while they installed a new marked crosswalk—this time with paint. The city has since sent crews to remove that one, too.

"It was so insulting," says a leader of PDX Transformation, requesting anonymity because his activism could lead to legal consequences. "Everyone found it so useful. It wasn't doing any harm at all."

The intersection is already technically a crosswalk. Under Oregon law, all intersections are. Drivers (and cyclists) are required to yield as soon as “any part of the pedestrian’s body, wheelchair, cane, crutch or bicycle, moves onto the roadway in a crosswalk...”

But that wasn’t happening without paint or tape, according to staff at the New Day School. Actually marking a crosswalk can make a big difference.

“I got a lot of comments from parents who were so thrilled to have it there,” says Wendy Rattel, office manager at the preschool and child care center, which serves kids ranging from 2.5 to 5 years old. “They felt when they would step out in the crosswalk that traffic would actually stop. When it wasn’t present, neither bikes nor vehicles would stop for them.”

But the city says the activist crosswalk was potentially hazardous. PBOT, which has bemoaned dwindling resources to complete road maintenance and safety improvements in recent years, says it was necessary to remove the markings for safety and liability reasons.

“Drivers do not always respect marked crosswalks,” says Steve Novick, the city’s transportation commissioner. “They can create a false sense of security and lead to more crashes.”

Under PBOT’s evaluation guidelines for crosswalks, this stretch of Clinton won’t potentially qualify for city-sanctioned crosswalk markings until it sees average vehicle traffic of more than 4,000 cars per day (though there’s an exception for some school crossings). According to BikePortland.org, which first reported on this fight, the city carried out an analysis of SE Clinton and 19th a year ago that found the intersection wasn’t eligible.

“If we were to let one of these non-standard crosswalks stay permanently and a crash occurred at the location, the city would be potentially liable,” PBOT spokesperson John Brady told the website. Brady hadn’t responded to a list of questions from the Mercury as of press time.

But in fact, the city has already allowed some “non-standard” crosswalks to remain for more than a month. In the wake of the death of 15-year-old Fallon Smart on Southeast Hawthorne in August, a number of rogue crossings appeared in the roadway—including one, at Southeast 44th, that PDX Transformation takes credit for.

The group’s markings are still there today.

Brady says that’s because PBOT Director Leah Treat has promised the community she wouldn’t alter the roadway until a traffic study is complete. “So in that respect, the final status of that crosswalk hasn’t been decided,” Brady says.

The timing of this crosswalk tug-of-war is either ironic or fortuitous. More than a year after voting to adopt “Vision Zero”—a commitment to limiting severe traffic injuries and deaths—the city’s getting ready to consider a strategy for enacting the policy on Wednesday, October 12.

That plan runs more than 40 pages, and raises big concerns about Portland’s record of protecting pedestrians.

“While the overall number of traffic deaths in Portland has dropped over the past 20 years,” it notes, “the percentage of bicycle deaths has held steady and the percentage of pedestrian deaths has continued to rise.”

That’s the trend PDX Transformation says it’s fighting against. The group acknowledges that Clinton and 19th isn’t remotely the most dangerous intersection in Portland, but it’s planning to make a stand there nonetheless.

And it wants to do so with the city's blessing. To quell officials' concerns, the group has offered to install a crosswalk to the city's exact specifications, and using the same "thermoplastic" PBOT uses—all for free. There's even a GoFundMe campaign to pay for the effort.

The city hasn't responded to the offer, PDX Transformation says. Asked how the group will proceed, its founder balks.

"It's one of those things that we don't necessarily want to tip off the city to what our plans are," he says. "We're capable of striking at any time, day or night."