

**NATIONAL LAWYERS GUILD
PORTLAND, OREGON CHAPTER**



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DATE: August 1, 2016

TO: Mayor Charlie Hales
Commissioner Dan Saltzman
Commissioner Amanda Fritz
Commissioner Nick Fish
Commissioner Steve Novick

FROM: Portland Chapter of the National Lawyers Guild

CC: Auditor Mary Hull Caballero
IPR Director Constantin Severe
Citizen Review Committee

RE: TESTIMONY TO CITY COUNCIL RE PROPOSAL TO MERGE CRC AND
PRB

Dear Mayor Hales and City Commissioners:

The Portland Chapter of the National Lawyers' Guild (NLG) has been working on improving oversight of the Portland Police for more than two decades. In 2000, we joined with 17 other stakeholders as part of the Mayor Katz Work Group. After several months of study and debate, this Work Group (by a majority vote of 12-6) ultimately recommended the establishment of a civilian review board with the power to compel testimony and the power to recommend discipline for demonstrated police misconduct. We were also members of the 2010 Stakeholder group which issued 41 recommendations. The majority report of the Mayor Katz Work Group was discarded by Mayor Katz and from its ashes arose the dysfunctional PIIAC system. That was replaced by Internal Police Review (IPR) which was a modest improvement but riddled with serious issues as well. Now the City is looking to improve police accountability as required by its 2014 settlement agreement with the U.S. Department of Justice, and we see many of the same critical issues being swept aside on an expedited timeline.

The community has not been given adequate time, opportunity, and information for meaningful input regarding the proposal to consolidate the Police Review Board (PRB) and the Citizen Review Committee (CRC) that is currently being considered. While we appreciate the City trying to engage the community before considering a final proposal, it is not meaningful to invite the community to the conversation on six days' notice after the City has already considered options and taken positions. We are struggling to provide practical suggestions with so little information about why the appeals process takes so long and what solutions are viable.

Based on the information we have, the NLG objects to the substance of the proposal because we believe it is, overall, a step backward in police accountability. The City's proposed voting board of three community members, one city employee, and three police officers who meet behind closed doors is not *independent* oversight. It eliminates the most critical aspects of the CRC: a public process and a decision rendered by community members. It also creates an intimidating environment for complainants who often have been traumatized by police. In our experience assisting complainants with their appeals, the more officers in the room and the more formal the environment, the more stressful and daunting they find the process.

The NLG has long recommended that the CRC be empowered to review shootings and in-custody deaths, and use the preponderance of the evidence standard. These improvements are critical to independent and effective oversight. But, they do not warrant or require sacrificing other important elements of independent oversight—namely that all voting board members be community members, and that hearings be open to the public and held in a community location. For ideas of how Portland can accomplish all of the above, we recommend that the City take a look at specific elements of other civilian oversight boards, such as:

- Cincinnati Citizen Complaint Authority's 7 community-member review board that holds public hearings, reviews in-custody deaths and shootings, and releases officer names;
- San Diego Citizens' Review Board on Police Practices' review board with 23 community members who rotate onto panels for case review including shooting and death cases;
- Pittsburgh Citizen Police Review Board's 7 community-member review board that holds public hearings reviewing cases by the preponderance of the evidence

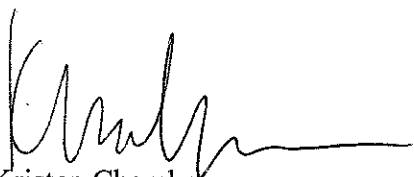
standard, and holds pre-hearing conferences;

- Atlanta Citizen Review Board's review board, comprised of 11 community members, that holds public hearings on cases including shootings and deaths; and
- Albuquerque Civilian Police Oversight Agency's 9 community-member review board that holds public hearings and reviews shootings.¹

We believe the challenges of limited community-member availability and the public-records-exemption law are not real barriers. The first issue can be ameliorated by dividing the board in two, creating panels, or providing staff assistance and resources to the community members. The second issue needs to be researched to determine if the public interest exception can apply to appellate review of police misconduct investigations. If it cannot, all components of the review process should be public with the limited exceptions of protecting officer identities by referring to them as "Officer A," "Officer B," etc. and keeping investigatory materials confidential to all but CRC members, the complainant, and their APA.

The NLG strongly encourages the City to take a step back and re-evaluate its proposal with a focus on solutions that do not sacrifice real and perceived police accountability. Transparency is essential to rebuilding the public trust.

Sincerely,



Kristen Chambers
Portland NLG Policy Board Member

¹ This list is not complete or exclusive. It was prepared through preliminary online research. Further research needs to be conducted to determine the full scope of these agencies and any