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June 20, 2020

Joint Interim Committee On The First Special Session of 2020
Oregon Legislature
900 Court Street NE, Room 453
Salem, OR
97301

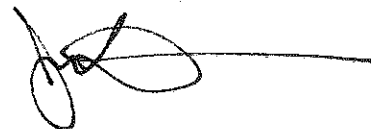
Dear Members of the Committee,

I am writing to provide written testimony in regard to the Potential Legislative Concepts for the First Special Session of 2020. Having read the proposed legislative changes, I do not see any that would improve the public disclosure of law enforcement officer disciplinary records.

As you may know, Oregon Revised Statute 181.854 provides for such information to be kept confidential and, under ORS 181.854(5) does not compel the public body to disclose the disposition of any complaint, even to the complainant. This completely undermines the notion of transparency in the system. As Andrea Damewood, a former Portland Independent Police Review investigator stated in a recent *Willamette Week* article (attached), "Even in cases where I could sustain allegations against an officer, the report and discipline were... kept secret."

In an era where police violence nationwide against individuals is being documented daily, it is outrageous that information on complaint disposition is kept confidential. The bar is already sufficiently high for complainants to submit reports to oversight bodies such as the Portland IPR. They have an expectation of a response after a full investigation is completed, as does the public. I urge you to include amendments to records transparency, including amending ORS 181.854, in your legislative agenda.

Yours truly,

A handwritten signature in black ink, appearing to read 'Julian Dunn', with a long horizontal line extending to the right.

Julian Dunn

Encl.

I Was an Investigator of Portland Police Conduct. Here's Why It Doesn't Work.

The entire process is enveloped in secrecy.



STICKS AND STONES: The city's Independent Police Review received 2,300 complaints about officer behavior in one week of protests. (Alex Wittwer)

By Andrea Damewood

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The phone lines and email inbox at Portland's Independent Police Review are jammed.

At an unprecedented volume, Portlanders are reaching out to the civilian oversight agency whose job it is to investigate allegations of police misconduct. Allegations of abuses witnessed over the past few weeks of officers driving their squad cars toward people, firing tear gas at protesters as they ran away, and spray-painting vehicles cops believe are associated with the protesters.

In a slow week, IPR might get a complaint or two a day; recently, those numbers have skyrocketed to hundreds of contacts daily.

When citizens seeking accountability come to IPR to find out the results of a complaint they made, they get a form letter that contains little information about the investigation, besides a "yes" or "no" whether their allegations were sustained.

Why don't citizens get more? Because, according to state law, no one outside of IPR or the Portland Police Bureau itself will see the full report. Nearly all police misconduct investigations are guaranteed never to see the light of day.

I'm a former newspaper reporter (including at *WW*), and I covered cops and social justice for most of my career. When I had the chance in 2017 to work for the city of Portland at IPR as an investigator, I jumped at it to make change from the inside.

But by the time I left the agency last year (on good terms), I'd grown frustrated with the absence of transparency and true accountability.

The system is flawed for two reasons: The first is that the yardstick by which police actions are measured makes it extremely difficult to find fault. The second is that the entire process is enveloped in secrecy.

During my two years, I probably investigated dozens of allegations of police misconduct, and I saw things that horrified me. But as an IPR investigator, my task was to determine whether a cop, accused of a charge like racial bias or improper arrest, did anything to violate police policy in a way that could lead to discipline.

Investigators, if we want our cases to hold up in court or arbitration, have to show we're using the standard of rule or law. In the case of PPB, the standard is the bureau's "directives."

"Directives provide members with information to act decisively, consistently, and legally," PPB's rulebook says. "When unusual circumstances are encountered, directives help members identify the best course of action to follow."

But how these directives function often leaves wide latitude for officer behavior. For example, the bureau's use-of-force directive says an officer can't strike someone known to be medically fragile with a baton, but if the officer claims not to have seen the cane a man was holding before he pushed him down, he's going to be let off. Or take the bureau's truthfulness policy: It requires officers to have "knowingly or willfully" lied to be in violation of bureau directives—but let me say, it's tough to prove what exactly was going through a cop's mind if they won't tell you.

I was often left with no alternative but to exonerate officers whose behavior was reprehensible, just because they acted in a way that the bureau's training and policy supported. In other words, the conduct, even when reprehensible, often complied with PPB directives.

No matter what my personal beliefs are, I can't as an investigator just go rogue because I don't like a particular bureau directive.

But if you were the complainant, you'd never know just how much investigating I did, or why your complaint was not sustained. That expectation of a reasoned response—and an explanation of how the officer's behavior complied with directives—is the whole point of transparency. It almost never happens.

That's because you're not allowed to see the report. Neither is the press or any member of the public. Even in cases where I could sustain allegations against an officer, the report and discipline were also kept secret.

Oregon Revised Statutes 181.854 keeps all of this information cloistered in Central Precinct and City Hall, with limited exceptions for high public interest cases. State Sen. Lew Frederick (D-Portland) attempted to get his Democratic colleagues to pass a bill to make investigations public last year; it died in committee.

If you're angry reading this: good. You should be allowed to read the conclusions investigators reach, and you, and your fellow citizens, should be allowed to use those conclusions to lobby for change. For years, our progressive leaders in the statehouse have chosen secrecy and protecting police unions over transparency and accountability. They now say they will try to atone for that failure in a special session starting June 24.

If Mayor Ted Wheeler and Commissioner Jo Ann Hardesty really want to reform how police oversight works, they need to start at the Legislature. Reforms could certainly be made at the level of IPR and its Citizen Review Committee—investigators, for example, aren't allowed to search the Police Bureau's database, which holds copies of police reports and evidence. Instead, they must rely on the records department to provide them at their leisure. But until the public can see exactly where directives are too lax, we'll never see the kind of change protesters are demanding.

There's so much wrong with how policing works in America. I understand the sentiment to abolish it entirely. Barring that, we've got a long way to go. Even with the transparency offered by body cameras—which Portland police do not wear—and the increasing availability of video evidence, cops are rarely held accountable for their actions because of ironclad union contracts and friendly arbitrators who routinely overturn firings and other discipline. That must change.

But without transparency, you don't really know how bad it is. And I can't tell you, because state law allows agencies to withhold this information.

We all know the power of videos showing police abuse of Black people in this country. But reports are powerful, too. If you could see what I've seen, you would be furious.

You should be allowed to see what I've seen.

Andrea Damewood now works for Multnomah County, but she speaks only for herself.