

# Timing is right on 48-hour rule, police oversight

On Wednesday this week, Portland City Council made two important decisions regarding the city's police force: One to move forward, the other to step back. Both were the right move.

Moving forward, the council voted to approve an ordinance that clears the way for ending, finally, the 48-hour rule.

A perpetual target in the effort to reform police oversight, the 48-hour rule essentially insulates a police officer from being questioned by investigators for up to 48 hours after the officer was involved in a

deadly force incident. It's a privilege not afforded to civilians, and was often seen as a way for officers to protect themselves from discipline or civil recriminations; to get the story straight, as it were.

Ending the 48-hour rule was a campaign pledge by Mayor Ted Wheeler and former Mayor Charlie Hales, who incorporated its demise into the union contract that was renegotiated last fall.

But its removal was short-lived. Multnomah County District Attorney Rod Underhill said compelling officers to testify in these cases risked jeopardizing criminal investigations. The police bureau was scheduled to reinstate the rule this month.

On Wednesday, the Council pushed ahead with their own interpretation of the law – scuttling the bureau's plan to restore the rule and directing the city attorney to come back in two weeks with a new directive finalizing the end of the 48-hour rule. The substitute ordinance restores the policy in the police union contract immediately. However, it also forewarns of a possible caveat that would allow the chief of police and the police commissioner, in consultation with the city attorney, to defer an administrative investigation until after the criminal investigation is completed.

While the community has clamored for years for the end of this rule, police reform advocates consider the caveat a loophole that will undermine the people's intent to compel testimony. However, according to the Portland City Attorney Tracy Reeve, many jurisdictions have that "escape hatch" in their policy. Regardless, that proposal won't be in effect until – and unless – it reaches the final directive.

Ultimately, the City Council will have the next two weeks to gather more information from attorneys,

consultants and the public to plant the final nail in the 48-hour coffin.

On the other hand, the step back was equally important and perhaps more significant. Mayor Wheeler is withholding his controversial proposal to revive and reinvent the disbanded Community Oversight and Advisory Board, or COAB – a contingent of the city's settlement with the Department of Justice to address police misconduct.

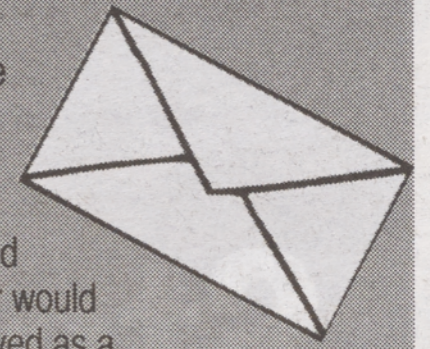
The proposal would replace the COAB with the Portland Commission on Community-Engaged Policing, or PCCEP. To avoid the problems associated with the contentious COAB, this new body would operate without the tethers of a regular public audience, and its members would be appointed by the mayor and accountable to the mayor – who also heads up the police bureau. For obvious reasons, this closed-circuit set-up under the mayor's office was met with opposition. To the credit of Mayor Wheeler, with the support of the council, the proposal was withdrawn to reconsider not only a host of amendments proposed by Commissioners Amanda Fritz and Chloe Eudaly, but also testimony from the public. We trust the returning proposal will benefit greatly from the changes, to expand membership on the oversight board, open up the opportunity for public participation and loosen the hold from a siloed authority, be it real or simply perceived. Creating a platform for public input and diverse perspectives is incredibly challenging, but it is the foundation of a community oversight committee. And so is having clear directives of its responsibilities, process and obligations. Some have suggested the COAB – that seemed obligated to serve many masters – was set up for failure, which may be the case. But there is a lot to be learned in failure. The public is still due its accountability and input.

Even though the mayor's decision to rethink the new oversight committee is wise, it is still critical that the process not wait any longer than it has to. The Portland Police Bureau will soon welcome a new police chief, Danielle Outlaw, a 19-year veteran and deputy chief of the Oakland Police Department.

To give Chief Outlaw a proper reception, City Council will solidify these policies before she arrives, with the full, and long-suffering mandate of the city of Portland.

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